

**I. EXECUTIVE ORDERS**

BJ 15-05	Flags at Half Staff .....	581
BJ 15-06	Flags at Half Staff .....	581
BJ 15-07	Flags at Half Staff .....	582

**II. EMERGENCY RULES**

**Agriculture and Forestry**

Office of Agricultural and Environmental Sciences—Application of Pesticides (LAC 7:XXIII.1103) .....	583
------------------------------------------------------------------------------------------------------	-----

**Civil Service**

Board of Tax Appeals—Computation of Time .....	584
------------------------------------------------	-----

**Governor**

Division of Administration, Office of State Procurement—Procurement—Right to Protest (LAC 34:V.2545) .....	584
------------------------------------------------------------------------------------------------------------	-----

**Health and Hospitals**

Bureau of Health Services Financing—Coordinated Care Network—Recipient Participation (LAC 50:I.3103) .....	585
Home and Community-Based Services Waivers—Residential Options Waiver (LAC 50:XXI.Chapters 161-169) .....	586
Medicaid Eligibility—Medically Needy Program—Behavioral Health Services (LAC 50:III.2313) .....	601
Medical Transportation Program—Emergency Aircraft Transportation—Rotor Winged Ambulance Services Rate Increase (LAC 50:XXVII.353) .....	603
Nursing Facilities—Licensing Standards (LAC 48:I.9704, 9707, and Chapter 99) .....	603
State Children's Health Insurance Program—LaCHIP Affordable Plan Benefits Administration (LAC 50:III.Chapter 205) .....	607
Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waivers Residential Options Waiver (LAC 50:XXI.Chapters 161-169) .....	586

**Public Safety and Corrections**

Corrections Services—Offender Incentive Pay and Other Wage Compensation (LAC 22:I.331) .....	609
----------------------------------------------------------------------------------------------	-----

**Wildlife and Fisheries**

Wildlife and Fisheries Commission—Louisiana Fisheries Forward Program for the Commercial Crab Industry (LAC 76:VII.347) .....	611
Oyster Season Opening of the Public Oyster Seed Grounds East of the Mississippi River and North of the Mississippi River Gulf Outlet (MRGO) .....	613
Public Oyster Season Closure .....	613
Red Snapper Recreational Harvest Season .....	613

**III. RULES**

**Education**

Board of Elementary and Secondary Education—Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.613) .....	615
Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:CXI.3307) .....	616
Bulletin 137—Louisiana Early Learning Center Licensing Regulations (LAC 28:CLXI.Chapters 1-21) .....	616
Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CV.2313 and 2323) .....	643
Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.Chapters 2 and 6) .....	644
Student Financial Assistance Commission, Office of Student Financial Assistance Scholarship/Grant Programs—Personally Identifiable Information and TOPS Core Curriculum (LAC 28:IV.113, 301, 502, 703, 803, 1703, 2103, and 2113) .....	649
Scholarship/Grant Programs—TOPS Continuation Requirements (LAC 28:IV.301, 501, 503, 505, 507, 701, 703, 705, 801, 805, 1903, and 2103) .....	658
Scholarship/Grant Programs—TOPS Tech Early Start Award (LAC 28:IV.1003) .....	668
Tuition Trust Authority, Office of Student Financial Assistance—START Saving Program (LAC 28:VI.301) .....	669

**Environmental Quality**

Office of the Secretary, Legal Division—Ambient Air Quality Standards—PM <sub>10</sub> (LAC 33:III.711)(AQ351ft) .....	669
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**Governor**

Division of Administration, Office of State Procurement—Procurement (LAC 34:V.2101, 2518, and 2521).....	670
Division of Administration, Tax Commission—Ad Valorem Taxation (LAC 61:V.101, 304, 703, 907, 1103, 1307, 1503, 2503, 3101, 3103, 3105, 3106, 3107 and 3501).....	671

**Health and Hospitals**

Board of Pharmacy—Dispenser Reporting to Prescription Monitoring Program (LAC 46:LIII.2901 and 2911) .....	684
Expiration Date of Schedule II Prescriptions (LAC 46:LIII.2745 and 2747).....	684
Bureau of Health Services Financing—Abortion Facilities—Licensing Standards (LAC 48:I.Chapter 44) .....	685
Nursing Facilities—Per Diem Rate Reduction (LAC 50:II.20005).....	707
Rehabilitation Clinics—Physical and Occupational Therapies—Reimbursement Rate Increase (LAC 50:XI.301 and 303) .....	707
School Based Health Centers—Rehabilitation Services—Reimbursement Rate Increase (LAC 50:XV.9141).....	708
State Children's Health Insurance Program—Coverage of Prenatal Care Services (LAC 50:III.20301 and 20303) .....	708
Licensed Professional Counselors Board of Examiners—PLPC and PLMFT Regulations; Fee Structure Adjustments/Changes (LAC 46:LX.Chapters 1-47) .....	709

**State**

Elections Division—Merit Evaluation for Registrars of Voters (LAC 31:II.Chapter 1) .....	759
------------------------------------------------------------------------------------------	-----

**Wildlife and Fisheries**

Wildlife and Fisheries Commission—Louisiana Catch and Cook Program and Permit (LAC 76:VII.381).....	760
Recreational Offshore Landing Permit (LAC 76:VII.377) .....	761

**Workforce Commission**

Plumbing Board—Water Supply Protection Specialists Recertification Requirements (LAC 46:LV.1003) .....	762
--------------------------------------------------------------------------------------------------------	-----

**IV. NOTICE OF INTENT****Agriculture and Forestry**

Office of Forestry—Prescribed Burning Complaints (LAC 7:XXXIX.913 and 914) .....	763
----------------------------------------------------------------------------------	-----

**Civil Service**

Board of Ethics—Food and Drink Limit and Act 857 of 2014 Legislative Session (LAC 52:I.Chapters 13, 17, and 19).....	764
----------------------------------------------------------------------------------------------------------------------	-----

**Education**

Board of Elementary and Secondary Education—Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.303 and 519) .....	765
Bulletin 126—Charter Schools (LAC 28:CXXXIX.518, 1303, 1503, 1703, 2709, and 2801) .....	767
Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel (LAC 28:CXLVII.Chapter 3 and 701).....	771
Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.101, 103, and Chapter 3) .....	773
Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CXV.2314 and 2357) .....	780
Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators (LAC 28:LXXIX.2102 and 2319) .....	782
Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.Chapters 2 and 6) .....	783
Bulletin 1566—Pupil Progression Policies and Procedures (LAC 28:XXXIX.307, 503, and 701).....	787
Honorary Diplomas (LAC 28:I.1501) .....	789
Tuition Trust Authority, Office of Student Financial Assistance—START Saving Program Interest Rates for the 2014 Calendar Year (LAC 28:VI.315).....	790

**Environmental Quality**

Office of the Secretary, Legal Division—2014 Annual Incorporation by Reference Federal Air Quality Regulations (LAC 33:III.506, 507, 2160, 3003, 5116, 5311 and 5901)(AQ352ft) .....	791
Distribution of Byproduct Material (LAC 33:XV.102, 301, 304, 322, 324, 328, 361, 399, 460, 465, 499, 541, 731, and 1302)(RP058ft).....	794

**Governor**

Division of Administration, Racing Commission—Timing of Entering Next Claiming Race (LAC 35:XI.9905) .....	799
------------------------------------------------------------------------------------------------------------	-----

**Health and Hospitals**

Board of Dentistry—Continuing Education Requirement (LAC 46:XXXIII.1607).....	800
Expanded Duty Dental Assistant (LAC 46:XXXIII.504 and 508) .....	801
Reinstatement of Licenses Revoked for Non-Payment, Temporary Licenses, and Guidelines for Returning to Active Practice (LAC 46:XXXIII.Chapter 1) .....	802
Bureau of Health Services Financing—Behavioral Health Services—Statewide Management Organization LaCHIP Affordable Plan Benefits Administration (LAC 50:XXXIII.103).....	804
Free-Standing Birthing Centers (LAC 50:XV.Chapters 265-271).....	806

Home and Community-Based Services Waivers—Children's Choice Waiver—Electronic Visit Verification (LAC 50:XXI.11531).....	808
Home and Community-Based Services Waivers—New Opportunities Waiver—Electronic Visit Verification (LAC 50:XXI.Chapter 142) .....	809
Home and Community-Based Services Waivers—Residential Options Waiver—Electronic Visit Verification (LAC 50:XXI.16705) .....	810
Home and Community-Based Services Waivers—Supports Waiver—Electronic Visit Verification (LAC 50:XXI.5903) .....	812
Home Health Program—Rehabilitation Services—Reimbursement Rate Increase (LAC 50:XIII.Chapter 9) ....	813
Nursing Facilities—Standards for Payment—Level of Care Determinations (LAC 50:II.10156) .....	815
Professional Services Program—Immunizations—Reimbursement Methodology (LAC 50:IX.8305 and 8505) .....	816
Professional Services Program—Physician Services—Reimbursement Methodology (LAC 50:IX.15113) .....	818
State Children's Health Insurance Program—LaCHIP Affordable Plan Benefits Administration (LAC 50:III.Chapter 205).....	820
State Children's Health Insurance Program—Modified Adjusted Gross Income (LAC 50:III.20103).....	822
Therapeutic Group Homes—Licensing Standards (LAC 48:I.Chapter 62) .....	823
Office of Aging and Adult Services—Nursing Facilities—Standards for Payment—Level of Care Determinations (LAC 50:II.10156) .....	815
Office of Behavioral Health—Behavioral Health Services—Statewide Management Organization LaCHIP Affordable Plan Benefits Administration (LAC 50:XXXIII.103).....	804
Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waivers Children's Choice Waiver—Electronic Visit Verification (LAC 50:XXI.11531) .....	808
Home and Community-Based Services Waivers—New Opportunities Waiver—Electronic Visit Verification (LAC 50:XXI.Chapter 142) .....	809
Home and Community-Based Services Waivers—Residential Options Waiver—Electronic Visit Verification (LAC 50:XXI.16705) .....	810
Home and Community-Based Services Waivers—Supports Waiver—Electronic Visit Verification (LAC 50:XXI.5903) .....	812
Single Point of Entry into the System (LAC 48:IX.Chapter 7) .....	826
<b>Insurance</b>	
Office of the Commissioner—Regulation 31—Holding Company (LAC 37:XIII.Chapter 1) .....	830
<b>Louisiana State University and Agricultural and Mechanical College</b>	
Office of Procurement and Property Management—Public Notification and Right to Audit (LAC 34:XIII.511 and 1902).....	844
<b>Public Safety and Corrections</b>	
Corrections Services—Offender Incentive Pay and Other Wage Compensation (LAC 22:I.331).....	845
Gaming Control Board—Age Restrictions for the Casino; Methods to Prevent Minors from Gaming Area (LAC 42:III.2915) .....	846
Casino Gaming Payment Interception (LAC 42:III.2737) .....	847
Internal Controls; Tips or Gratuities (LAC 42:III.2721) .....	849
Key Gaming Employee (LAC 42:III.1701) .....	850
Licenses and Permits—Suitability Determination (LAC 42:III.2109) .....	851
Managerial Representative on Premises (LAC 42:III.2955) .....	852
Non-Gaming Suppliers (LAC 42:III.2108) .....	854
Progressive Electronic Gaming Devices (LAC 42:III.4204) .....	855
Tax Clearance Required of an Applicant, Licensee or Permittee (LAC 42:III.2114) .....	856
Video Draw Poker—Application and License (LAC 42:XI.2405) .....	857
Video Draw Poker—Penalty Schedule (LAC 42:XI.2424) .....	858
Office of the State Fire Marshal—Buildings; Observation of Construction; Final Inspection (LAC 55:V.307) .....	859
<b>Revenue</b>	
Policy Services Division—Louisiana Tax Credit Registry (LAC 61:III.2701 and 2705) .....	861
<b>Wildlife and Fisheries</b>	
Wildlife and Fisheries Commission—Recreational Reef Sites and Restriction of Oyster Harvest (LAC 76:VII.537).....	863
<b>Workforce Commission</b>	
Rehabilitation Services—Business Enterprises Program Manual (LAC 67:VII.519) .....	866
Vocational Rehabilitation Program (LAC 67:VII.Chapter 1) .....	868
<b>V. ADMINISTRATIVE CODE UPDATE</b>	
Cumulative—January 2015 through March 2015 .....	871

<b>VI. POTPOURRI</b>	
<b>Agriculture and Forestry</b>	
Office of Agricultural and Environmental Sciences—Annual Quarantine Listing Plant Protection and Quarantine .....	872
<b>Environmental Quality</b>	
Office of Environmental Services, Air Permits Division—Renewal of Minor Source Air Permits .....	874
Office of the Secretary, Legal Division—2010 Sulfur Dioxide National Ambient Air Quality Standards State Implementation Plan (SIP) .....	874
Notice of Public Hearing—Substantive Changes to Proposed Rule AQ349—Significant Monitoring Concentration for PM <sub>2.5</sub> and Addition of Significant Impact Levels for PM <sub>10</sub> , SO <sub>2</sub> , NO <sub>x</sub> and CO (LAC 33:III.509) .....	874
<b>VII. INDEX</b>	876

# Executive Orders

## EXECUTIVE ORDER BJ 15-05

Flags at Half Staff

WHEREAS, an Army National Guard UH-60 Black Hawk helicopter was involved in a fatal accident off the coast of the Florida panhandle late Tuesday evening during a training mission; and

WHEREAS, four Louisiana National Guard aircrew and seven U.S. Marines were aboard the aircraft at the time of the crash; and

WHEREAS, the Louisiana National Guard is working in conjunction with the U.S. Coast Guard and Eglin Air Force Base for continued recovery efforts; and

WHEREAS, the service members dedicated their lives to serving their state and country, fighting courageously overseas in defense of our nation as well as here at home, protecting what matters most during times of crisis; and

WHEREAS, the thoughts and prayers of all Louisianians are with the families of the four Louisiana National Guard soldiers as well as the families of the seven U.S. Marines on board the Black Hawk helicopter.

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect for the four Louisiana National Guard soldiers as well as the seven U.S. Marines involved in the Black Hawk helicopter accident on Tuesday, March 10, 2015, effective immediately, the flags of the United States and the State of Louisiana shall be flown at half staff over the State Capitol and all public building and institutions of the State of Louisiana until sunset on Friday, March 20, 2015.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, March 20, 2015, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 13th day of March, 2015.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1504#007

## EXECUTIVE ORDER BJ 15-06

Flags at Half Staff

WHEREAS, an Army National Guard UH-60 Black Hawk helicopter was involved in a fatal accident off the coast of the Florida panhandle late Tuesday evening during a training mission; and

WHEREAS, four Louisiana National Guard aircrew and seven U.S. Marines were aboard the aircraft at the time of the crash; and

WHEREAS, the Louisiana National Guard is working in conjunction with the U.S. Coast Guard and Eglin Air Force Base for continued recovery efforts; and

WHEREAS, the service members dedicated their lives to serving their state and country, fighting courageously overseas in defense of our nation as well as here at home, protecting what matters most during times of crisis; and

WHEREAS, the thoughts and prayers of all Louisianians are with the families of the four Louisiana National Guard soldiers as well as the families of the seven U.S. Marines on board the Black Hawk helicopter.

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect for the four Louisiana National Guard soldiers as well as the seven U.S. Marines involved in the Black Hawk helicopter accident on Tuesday, March 10, 2015, the flags of the United States and the State of Louisiana shall continue to be flown at half staff over the State Capitol and all public building and institutions of the State of Louisiana until sunset on Friday, March 27, 2015.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, March 27, 2015, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 21st day of March, 2015.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1504#015

**EXECUTIVE ORDER BJ 15-07**

**Flags at Half Staff**

WHEREAS, an Army National Guard UH-60 Black Hawk helicopter was involved in a fatal accident off the coast of the Florida panhandle late in the evening on Tuesday, March 10, 2015 during a training mission; and

WHEREAS, four Louisiana National Guard aircrew and seven U.S. Marines were aboard the aircraft at the time of the crash; and

WHEREAS, the Louisiana National Guard is working in conjunction with the U.S. Coast Guard and Eglin Air Force Base for continued recovery efforts; and

WHEREAS, the service members dedicated their lives to serving their state and country, fighting courageously overseas in defense of our nation as well as here at home, protecting what matters most during times of crisis; and

WHEREAS, the thoughts and prayers of all Louisianians are with the families of the four Louisiana National Guard soldiers as well as the families of the seven U.S. Marines on board the Black Hawk helicopter.

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect for the four Louisiana National Guard soldiers as well as the seven U.S. Marines involved in the Black Hawk helicopter accident on Tuesday, March 10, 2015, the flags of the United States and the State of Louisiana shall continue to be flown at half-staff over the State Capitol and all public building and institutions of the State of Louisiana until sunset on Monday, March 30, 2015.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Monday, March 30, 2015, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of March, 2015.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1504#019

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

#### Application of Pesticides (LAC 7:XXIII.1103)

In accordance with the Administrative Procedure Act R.S. 49:953 and R.S. 3:3203, the commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in implementing the following rules and regulations governing the restrictions of application of certain pesticides during certain times.

Due to recent inclement weather and current crop conditions, the time frame for application of certain pesticides needs to be extended. Agriculture has been hit by adverse weather conditions for the last four years. Unless conditions change, the agriculture community will lose more farmers this year than in the past several years. Currently, the timeframe for requiring waivers for applications of these certain pesticides begins on March 15 annually. The department proposes to extend the application time, without the need for a waiver, for an additional 15 days. This extension is in an effort to insure that farm land is economically and properly prepared for crop planting, without which more farmers will not be able to farm.

Therefore, the commissioner of Agriculture and Forestry has determined that the extension of this timeframe constitutes an imminent peril to the health and safety of the Louisiana agricultural community and the citizens of Louisiana.

These rules become effective upon signature, March 16, 2015, and will remain in effect until March 31, 2015.

#### Title 7

#### Agriculture and Animals

#### Part XXIII. Advisory Commission on Pesticides

#### Chapter 11. Regulations Governing Application of Pesticides

#### §1103. Restrictions on Application of Certain Pesticides

A. In addition to all other pesticides classified by EPA as restricted use pesticides, the pesticides listed in Subsection B of this Section are classified as restricted use pesticides within the state of Louisiana, except:

1. when formulated in concentration of 2 percent or less; or
2. when formulated with fertilizer for use by homeowners; or
3. when formulated in containers of one quart or less or two pounds dry weight or less.

B. The following pesticides may not be applied by commercial applicators during the times set forth in this Rule in the areas listed in §1103.C, D and E.

Chemical Name	Common Name
1. 4-amino-3, 5,6-trichloro-picolinic acid	Picloram
2. Arsenic trioxide	---
3. 3-chlorophenoxy-alpha-propionamide	3-CPA

Chemical Name	Common Name
4. 4-chlorophenoxy acetic acid	4-CPA
5. 2,4-dichlorophenoxy acetic acid	2,4-D
6. 4-(2,4-dichlorophenoxy) butyric	2,4-DB
7. 2-methoxy-3, 6-dichlorobenzoic acid	Dicamba
8. 2-methyl-4-chlorophenoxyacetic acid	2, 4-MCPA
9. 4-(2 methyl-4-chlorophenoxy) butyric acid	---
10. 2-(2 methyl-4-chlorophenoxy)	2-MCPP
11. Arsenic acid	Arsenic
12. Sodium arsenite	---
13. 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate	---
14. Tris (2,4-dichlorophenoxy ethyl) phosphite	---
15. A mixture of tri-, tetra-, and polychlorobenzoic acid	---

C. The pesticides listed in §1103.B shall not be applied by commercial applicators between April 1 and September 15 in the following parishes or wards:

1. Avoyelles;
2. Bossier;
3. Caddo;
4. Caldwell;
5. Catahoula;
6. Claiborne, Ward 4;
7. Concordia;
8. DeSoto, Ward 7;
9. East Carroll;
10. Evangeline, Wards 1, 3 and 5;
11. Franklin;
12. Grant;
13. Iberville Ward 9;
14. LaSalle;
15. Madison;
16. Morehouse;
17. Natchitoches;
18. Ouachita;
19. Pointe Coupee;
20. Rapides;
21. Red River;
22. Richland;
23. St. Landry;
24. St. Martin, Ward 5;
25. Tensas;
26. Union;
27. West Carroll;
28. West Baton Rouge, Wards 5, 6, and 7;
29. Winn, Ward 7.

D. - O.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966

(September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 33:1855 (September 2007), LR 35:628 (April 2009), LR 36:1980 (September 2010), LR 37:269 (January 2011), LR 37:809 (March 2011), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3478 (December 2011), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 38:1556 (July 2012), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences LR 41:

Mike Strain, DVM  
Commissioner

1504#005

## **DECLARATION OF EMERGENCY**

### **Department of Civil Service Board of Tax Appeals**

#### **Computation of Time**

The Louisiana Board of Tax Appeals is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate Rule 13 of its standing rules.

This Rule is to be promulgated in accordance with R.S. 47:1413, which states: "In all other matters regarding the conduct of its hearings, the board may prescribe and promulgate rules and regulations not inconsistent with law or the provisions of this chapter, which rules and regulations when prescribed, adopted, and promulgated shall be binding upon parties litigant in any cause over which the jurisdiction of this board shall extend."

This Emergency Rule is necessary due to the board's move on May 1, 2015 into the Iberville State Office Building, 627 North Fourth St., Baton Rouge, LA 70802.

The board's new mailing address will be Board of Tax Appeals, P.O. Box 3217, Baton Rouge, LA 70821. The new telephone number will be (225) 219-3145, and new fax number will be (225) 219-3150.

The closure of the office for moving together with delays from mail forwarding would otherwise cause filings to be unduly delayed. The timeliness of filing is of critical importance to a citizen with business before the board due to strict prescriptive periods.

Therefore the board finds a need to adopt a filing rule consistent with the filing rule used by the Louisiana Supreme Court, which allows for the official postmark to be used as sufficient proof of timely filing. Without this change the public welfare of the citizens of Louisiana would be harmed due to their board filings being deemed untimely due to delivery delays.

This Declaration of Emergency is effective April 20, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Due to the scheduled closure of its offices, the board hereby declares April 27, 2015, April 30, 2015 and May 1, 2015 as legal holidays for the purposes of evaluating the timeliness of filings with the board.

Effective April 20, 2015, BTA Rule 13 is amended and restated as follows.

## **Rule 13: Computation of Time**

Computation of the delays provided herein shall be as provided in LSA-C.C.P Article 5059. A petition shall be deemed timely if filed with the board in the same manner and pursuant to the same provisions as those specified in Section 5(d) of Article X of the Rules of the Louisiana Supreme Court or if fax filed in strict compliance with board Rule 3.1.

Therefore, a filing properly mailed shall be deemed timely filed if mailed on or before the last day of the delay for filing. If the mailing is received by mail on the first legal day following the expiration of the delay, there shall be a rebuttable presumption that it was timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate of mailing from the United States Postal Service made at the time of mailing which indicates the date thereof, and shall not include only a self-metered postmark. For the purpose of this rule, the term "by mail" applies only to the United States Postal Service.

Anything forwarded by private delivery or courier service shall be deemed timely filed only if received on or before the last day of the delay for filing.

Judge Tony Graphia, (Ret.)  
Chairman

1504#094

## **DECLARATION OF EMERGENCY**

### **Office of the Governor Division of Administration Office of State Procurement**

#### **Procurement—Right to Protest (LAC 34:V.2545)**

The Division of Administration, Office of State Procurement, has exercised the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, to adopt LAC 34:V.2545.A.4 under the authority of R.S. 39:1581. This action is taken to ensure the continuity of the right to protest and to appeal requests for proposals and contract awards in regard to professional, personal, consulting and social services contracts after the effective date of Act 864 of 2014.

Said Act combined *Revised Statutes* title 39, chapter 16 (Professional, Personal, Consulting, and Social Services Procurement) into *Revised Statutes* title 39, chapter 17 (*Louisiana Procurement Code*) and became effective on January 1, 2015. This Emergency Rule will clarify that protests arising under the request for proposals provisions for professional, personal, consulting, social services, and energy efficiency contracts are governed by RS 39:1671, 1681, 1683, 1691, and 1692, as are all other protests and appeals under *Revised Statutes* title 39, chapter 17. This Emergency Rule shall be effective as of April 7, 2015, pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950) and shall remain in effect for the maximum period allowed by said act (120 days), or adoption of a permanent Rule under the same LAC Chapter, whichever occurs first.



**Title 34**  
**GOVERNMENT CONTRACTS, PROCUREMENT**  
**AND PROPERTY CONTROL**

**Part V. Procurement**

**Chapter 25. Procurement of Professional, Personal,  
Consulting, Social Services, and Energy  
Efficiency Contracts**

**Subchapter B. Contracts Let Via a Request for Proposals  
Process**

**§2545. Request for Proposals**  
**[Formerly LAC 34:V.145]**

A. Unless otherwise stated, this Section applies to all requests for proposals (RFP) solicitations issued under any provision of chapter 17, title 39, of the *Louisiana Revised Statutes*.

1. In addition to the requirements of R.S. 39:1595 and these regulations, a request for proposals should:

a. specifically define the task and desired results of project;

b. identify agency liaison personnel and resources available to the contractor;

c. state approximately when the contractor can begin the work, plus an estimate of the time necessary to accomplish the work, if applicable;

d. specify applicable procedures concerning billing, documentation requirements, progress reports, and final reports, if applicable;

e. specify that a minimum of two copies of the proposal be submitted;

f. inform the potential contractors of the criteria and the selection methodology and the weight which will be applied to each significant evaluation criteria to be used in evaluating the proposals' responsiveness to the RFP;

g. require potential contractors to include the following information in their proposals:

i. a description of the firm's qualifications to include a specific list of personnel to be used in the services and their qualifications (at least list the number and the qualifications of each position). However, a résumé will be required on each of the key personnel. Additionally for consulting services, the contractor must stipulate that these personnel will not be removed from the contract without prior approval of the using agency;

ii. a list of the agencies with names and contact persons, for whom similar work has been done;

iii. if applicable, the length of time needed for the services, broken down by phases, if phasing is necessary;

iv. the proposed methodology for accomplishing the services with a precise statement of what the state will receive as an end product of the services (this is sometimes referred to as the technical section of the proposal);

v. for consulting services only, an itemized cost statement showing various classes of man-hours at appropriate rate, delineated by phases, if phasing is used, and an itemized listing of all other expenses or fees that are expected to be paid by the state and a complete breakdown of consultant overhead rate, if applicable;

vi. for social services only, a detailed budget or other cost breakdown as may be required by the using agency and/or the federal government.

2. The final selection of a contractor shall be made in accordance with the selection criteria established in the RFP.

However, no contract may be enforced against the state until approval of the contract has been granted by the Office of State Procurement. When a final selection has been made, but prior to notice of award, the contract file containing that information outlined in Paragraphs 1-2 above, including the request for proposals, along with a selection memorandum justifying the final selection shall be sent to the Office of State Procurement for final concurrence. The selection memorandum shall include, but not be limited to:

a. a list of criteria used along with the weight assigned each criteria;

b. scores of each proposal considered in each of the categories listed above along with overall scores of each proposal considered;

c. a narrative justifying selection.

3. After final negotiation and execution, the contract shall be sent to the Office of State Procurement for final review and approval.

4. Right to Protest. Any person who is aggrieved in connection with the request for proposal or award, including a proposal or award for professional, personal, consulting or social services, may protest and appeal pursuant to the provisions of R.S. 39: 1671, 1681, 1683, 1691, and 1692.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 4:495 (December 1978), amended LR 7:180 (April 1981), LR 8:594 (November 1982), LR 10:459 (June 1984), LR 11:1072 (November 1985), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2567 (December 2014), amended LR 40:2545 (December 2014), amended by the by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:

Paul A. Holmes  
State Chief Procurement Officer

1504#028

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals**  
**Bureau of Health Services Financing**

Coordinated Care Network  
Recipient Participation  
(LAC 50:L3103)

The Department of Health and Hospitals, Bureau of Health Services Financing rescinds the July 20, 2014 Emergency Rule governing the Coordinated Care Network as authorized by R.S. 36:254. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted an Emergency Rule to amend the provisions governing the coordinated care network (CCN), hereafter referred to as the Bayou Health program, to exclude *Chisholm* class members from participation in order to allow sufficient time to amend the health plan contracts to meet the requirements of the

*Chisholm* court judgment (*Louisiana Register*, Volume 40, Number 7).

The department has now determined that it is necessary to rescind the provisions of the July 20, 2014 Emergency Rule governing the CCN. Upon adoption of this Emergency Rule, the department shall return to the provisions in place governing the recipient participation requirements in LAC 50:I.3103 of the June 20, 2014 final Rule governing the CCN. This action is being taken to promote the health and welfare of *Chisholm* class members who wish to exercise their option to participate in the Bayou Health program.

Effective April 4, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing rescinds the Emergency Rule which excluded *Chisholm* class members from participation in the coordinated care network which was published on page 1,244 of the July 20, 2014 edition of the *Louisiana Register*.

Kathy H. Kliebert  
Secretary

1504#018

## **DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Bureau of Health Services Financing  
and**

**Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
Residential Options Waiver  
(LAC 50:XXI.Chapters 161-169)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.Chapters 161-169 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B) (1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities adopted provisions establishing the Residential Options Waiver (ROW), a home and community-based services (HCBS) waiver program, to promote independence for individuals with developmental disabilities by offering a wide array of services, supports and residential options that assist individuals to transition from institutional care (*Louisiana Register*, Volume 33, Number 11). The department promulgated an Emergency Rule which amended the November 20, 2007 Rule to revise the provisions governing the allocation of waiver opportunities and the delivery of services in order to provide greater clarity (*Louisiana Register*, Volume 36, Number 4). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the Residential Options Waiver to clarify the provisions governing the annual service budget for waiver participants and to reduce the reimbursement rates for waiver services (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency

Rule which amended the provisions of the May 1, 2010 Emergency Rule to incorporate the provisions of the August 1, 2010 Emergency Rule (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 20, 2010 Emergency Rule governing the allocation of waiver opportunities in order to adopt criteria for crisis diversion, to revise the provisions governing the individuals who may be offered a waiver opportunity, and to clarify the provisions governing the Developmental Disabilities Request for Services Registry (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2011 Emergency Rule. This action is being taken to comply with the provisions of the approved waiver application and to secure enhanced federal funding.

Effective May 11, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing the Residential Options Waiver.

### **Title 50**

## **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part XXI. Home and Community Based Services Waivers**

#### **Subpart 13. Residential Options Waiver**

#### **Chapter 161. General Provisions**

##### **§16101. Introduction**

A. The Residential Options Waiver (ROW), a 1915(c) home and community-based services (HCBS) waiver, is designed to enhance the long-term services and supports available to individuals with developmental disabilities. These individuals would otherwise require an intermediate care facility for persons with developmental disabilities (ICF/DD) level of care.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

##### **§16103. Program Description**

A. The ROW is designed to utilize the principles of self determination and to supplement the family and/or community supports that are available to maintain the individual in the community. In keeping with the principles of self-determination, ROW includes a self-direction option which allows for greater flexibility in hiring, training and general service delivery issues. ROW services are meant to enhance, not replace existing informal networks.

B. ROW offers an alternative to institutional care that:

1. utilizes a wide array of services, supports and residential options which best meet the individual's needs and preferences;
2. meets the highest standards of quality and national best practices in the provision of services; and
3. ensures health and safety through a comprehensive system of participant safeguards.
4. Repealed.

C. All ROW services are accessed through the support coordination agency of the participant's choice.

1. The plan of care (POC) shall be developed using a person-centered process coordinated by the participant's support coordinator.

D. All services must be prior authorized and delivered in accordance with the approved POC.

E. The total expenditures available for each waiver participant is established through an assessment of individual support needs and will not exceed the approved ICF/DD ICAP rate established for that individual.

1. When the department determines that it is necessary to adjust the ICF/DD ICAP rate, each waiver participant's annual service budget shall be adjusted to ensure that the participant's total available expenditures do not exceed the approved ICAP rate.

F. No reimbursement for ROW services shall be made for a participant who is admitted to an inpatient setting.

G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

#### **§16105. Participant Qualifications**

A. In order to qualify for services through the ROW, an individual must be offered a ROW opportunity and meet all of the following criteria:

1. have a developmental disability as specified in the Louisiana Developmental Disability Law and determined through the developmental disabilities system entry process;

2. meet the requirements for an ICF/DD level of care which requires active treatment for developmental disabilities under the supervision of a qualified developmental disabilities professional;

3. meet the financial eligibility requirements for the Louisiana Medicaid Program;

4. be a resident of Louisiana; and

5. be a citizen of the United States or a qualified alien.

B. Assurances are required that the health, safety and welfare of the individual can be maintained in the community with the provision of ROW services.

1 – 3.c. Repealed.

C. Justification must be documented in the OCDD approved POC that the ROW services are appropriate, cost effective and represent the least restrictive environment for the individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

#### **§16106. Money Follows the Person Rebalancing Demonstration**

A. The Money Follows the Person (MFP) Rebalancing Demonstration is a federal demonstration grant awarded by the Centers for Medicare and Medicaid Services to the Department of Health and Hospitals. The MFP demonstration is a transition program that targets individuals

using qualified institutional services and moves them to home and community-based long-term care services.

1. For the purposes of these provisions, a qualified institution is a nursing facility, hospital, or Medicaid enrolled intermediate care facility for people with developmental disabilities (ICF/DD).

B. Participants must meet the following criteria for participation in the MFP Rebalancing Demonstration.

1. Participants with a developmental disability must:

a. occupy a licensed, approved Medicaid enrolled nursing facility, hospital or ICF/DD bed for at least three consecutive months; and

b. be Medicaid eligible, eligible for state developmental disability services, and meet an ICF/DD level of care.

2. The participant or his/her responsible representative must provide informed consent for both transition and participation in the demonstration.

C. Participants in the demonstration are not required to have a protected date on the developmental disabilities request for services registry.

D. All other ROW provisions apply to the Money Follows the Person Rebalancing Demonstration.

E. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

#### **§16107. Programmatic Allocation of Waiver Opportunities**

A. The developmental disabilities request for services registry (RFSR), hereafter referred to as "the registry," shall be used to evaluate individuals for ROW opportunities and to fill waiver opportunities for persons with developmental disabilities, except for those specific opportunities to be provided to persons who are described in Paragraph B.1-5 of this Section, who are not on the registry.

1. The next individual on the registry shall be notified in writing that a waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment. The individual shall then choose a support coordination agency that will assist in the gathering of the documents needed for both the financial eligibility and medical certification process for the level of care determination.

a. – e. Repealed.

2. If the individual is determined to be ineligible, either financially or medically, that individual shall be notified in writing. The next individual on the registry shall be notified, as stated in Paragraph B.1 of this Section, and the process continues until an eligible individual is assigned the waiver opportunity.

3. A waiver opportunity shall be assigned to an individual when eligibility is established and the individual is certified. By accepting a ROW opportunity, this person's name will be removed from the registry.

B. ROW opportunities will be offered to the following individuals:

1. persons who meet the ICF/DD level of care and are being serviced through the OCDD Host Home contracts;

2. persons who meet the ICF/DD level of care and who need HCBS due to a health and/or safety crisis situation (crisis diversion):

a. requests for crisis diversion shall be made through OCDD. To be considered for a crisis diversion opportunity, the individual must need long-term supports, not temporary or short-term supports;

b. determination of priority for a crisis diversion ROW opportunity will be considered by OCDD for the individual who is eligible for services and meets one of the following criteria:

- i. homeless;
- ii. at imminent risk of losing current residential placement;
- iii. referred by the judicial system;
- iv. referred by child, adult, or elderly protective authorities;
- v. without a caregiver and cannot adequately care for self;
- vi. with a caregiver who can no longer provide care; or
- vii. whose needs cannot be met within a community living situation;

3. children who:

- a. are from birth to age 18;
- b. reside in a nursing facility;
- c. meet the high-need requirements for a nursing facility level of care, as well as the ROW level of care requirements;
- d. participate in the MFP Rebalancing Demonstration; and
- e. have parents or legal guardians who wish to transition them to a home and community-based residential services waiver;

4. persons who reside in a Medicaid-enrolled ICF/DD and wish to transition to a home and community-based residential services waiver through a voluntary ICF/DD bed conversion process;

5. persons who wish to transition from a supports and services center into a ROW opportunity;

6. adults in nursing facilities (NFs) who wish to transition to home and community-based residential services and who meet the level of care (LOC) that qualifies them for ROW eligibility based on their RFSR protected date on a first come, first served basis; and

7. persons residing in ICFs/DD who wish to transition to a home and community-based residential services setting and are eligible based on their RFSR protected date on a first come, first served basis.

C. The Office for Citizens with Developmental Disabilities has the responsibility to monitor the utilization of ROW opportunities. At the discretion of OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of citizens with developmental disabilities in the State of Louisiana.

C.1. - E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities, LR 41:

#### **§16109. Admission Denial or Discharge Criteria**

A. Admission to the ROW Program shall be denied if one of the following criteria is met.

1. The individual does not meet the financial eligibility requirements for the Medicaid Program.

2. The individual does not meet the requirements for an ICF/DD level of care.

3. The individual does not meet developmental disability system eligibility.

4. The individual is incarcerated or under the jurisdiction of penal authorities, courts or state juvenile authorities.

5. The individual resides in another state.

6. The health and welfare of the individual cannot be assured through the provision of ROW services.

7. The individual fails to cooperate in the eligibility determination process or in the development of the POC.

8. Repealed.

B. Participants shall be discharged from the ROW Program if any of the following conditions are determined:

1. loss of Medicaid financial eligibility as determined by the Medicaid Program;

2. loss of eligibility for an ICF/DD level of care;

3. loss of developmental disability system eligibility;

4. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;

5. change of residence to another state;

6. admission to an ICF/DD or nursing facility with the intent to stay and not to return to waiver services;

7. the health and welfare of the participant cannot be assured through the provision of ROW services in accordance with the participant's approved POC;

8. the participant fails to cooperate in the eligibility renewal process or the implementation of the approved POC, or the responsibilities of the ROW participant; or

9. continuity of stay for consideration of Medicaid eligibility under the special income criteria is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days;

a. continuity of stay is not considered to be interrupted if the participant is admitted to a hospital, nursing facility or ICF/DD.

i. the participant shall be discharged from the ROW if the treating physician documents that the institutional stay will exceed 90 days.

10. continuity of services is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

#### **Chapter 163. Covered Services**

##### **§16301. Assistive Technology and Specialized Medical Equipment and Supplies**

A. Assistive technology and specialized medical equipment and supplies (AT/SMES) are equipment, devices,

controls, appliances, supplies and services which enable the participant to:

1. have life support;
2. address physical conditions;
3. increase ability to perform activities of daily living;
4. increase, maintain or improve ability to function more independently in the home and/or community; and
5. increase ability to perceive, control or communicate.

B. AT/SMES services provided through the ROW include the following services:

1. evaluation of participant needs;
2. customization of the equipment or device;
3. coordination of necessary therapies, interventions or services;
4. training or technical assistance on the use and maintenance of the equipment or device for the participant or, where appropriate, his/her family members, legal guardian or responsible representative;
5. training or technical assistance, when appropriate, for professionals, other service providers, employers, or other individuals who are substantially involved in the participant's major life functions;
6. all service contracts and warranties included in the purchase of the item by the manufacturer; and
7. equipment or device repair and replacement of batteries and other items that contribute to ongoing maintenance of the equipment or device.

a. Separate payment will be made for repairs after expiration of the warranty only when it is determined to be cost effective.

C. Approval of AT/SMES services through ROW is contingent upon the denial of a prior authorization request for the item as a Medicaid State Plan service and demonstration of the direct medical, habilitative or remedial benefit of the item to the participant.

1. Items reimbursed in the ROW may be in addition to any medical equipment and supplies furnished under the Medicaid State Plan.

1.a. - 7. Repealed.

D. ...

E. Service Exclusions

1. Assistive technology devices and specialized equipment and supplies that are of general utility or maintenance and have no direct medical or remedial benefit to the participant are excluded from coverage.

2. Any equipment, device, appliance or supply that is covered and has been approved under the Medicaid State Plan, Medicare or any other third party insurance is excluded from coverage.

3. For adults over the age of 20 years, specialized chairs, whether mobile or travel, are not covered.

F. Provider Participation Requirements. Providers of AT/SMES services must meet the following participation requirements. The provider must:

1. be enrolled in the Medicaid Program as a assistive devices or durable medical equipment provider and must meet all applicable vendor standards and requirement for manufacturing, design and installation of technological equipment and supplies;

2. furnish written documentation of authorization to sell, install and/or repair technological equipment and

supplies from the respective manufacturer of the designated equipment and supplies; and

3. provide documentation of individual employees' training and experience with the application, use, fitting and repair of the equipment or devices which they propose to sell or repair;

a. upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

### **§16303. Community Living Supports**

A. Community living supports (CLS) are services provided to assist participants to achieve and maintain the outcomes of increased independence, productivity and inclusion in the community by utilizing teaching and support strategies. CLS may be furnished through self-direction or through a licensed, enrolled agency.

B. Community living supports are related to acquiring, retaining and improving independence, autonomy and adaptive skills. CLS may include the following services:

1. direct support services or self-help skills training for the performance of all the activities of daily living and self-care;
2. socialization skills training;
  - a. Repealed.
3. cognitive, communication tasks, and adaptive skills training; and
  - a. Repealed.
4. development of appropriate, positive behaviors.
  - a. - b. Repealed.

C. ...

D. Community living supports may be shared by up to three recipients who may or may not live together, and who have a common direct service provider. In order for CLS services to be shared, the following conditions must be met:

1. an agreement must be reached among all involved participants or their legal guardians regarding the provisions of shared CLS services;
2. the health and welfare of each participant must be assured though the provision of shared services;
3. services must be reflected in each participant's approved plan of care and based on an individual-by-individual determination; and
4. a shared rate must be billed.

E. - E.1. ...

2. Routine care and supervision that is normally provided by the participant's spouse or family, and services provided to a minor by the child's parent or step-parent, are not covered.

3. CLS services may not be furnished in a home that is not leased or owned by the participant or the participant's family.

4. Participants may not live in the same house as CLS staff.

5. Room and board or maintenance, upkeep and improvement of the individual's or family's residence is not covered.

6. Community living supports shall not be provided in a licensed respite care facility.

a. – d. Repealed.

7. Community living supports services are not available to individuals receiving the following services:

- a. Shared Living;
- b. Home Host; or
- c. Companion Care.

8. Community living supports cannot be billed or provided for during the same hours on the same day that the participant is receiving the following services:

- a. day habilitation;
- b. prevocational;
- c. supported employment;
- d. respite-out of home services; or
- e. transportation-community access.

F. - F.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

#### **§16305. Companion Care**

A. Companion care services assist the recipient to achieve and/or maintain the outcomes of increased independence, productivity and inclusion in the community. These services are designed for individuals who live independently and can manage their own household with limited supports. The companion provides services in the participant's home and lives with the participant as a roommate. Companion care services may be furnished through self-direction or through a licensed provider agency as outlined in the participant's POC. This service includes:

- 1. providing assistance with all of the activities of daily living as indicated in the participant's POC; and
- 2. community integration and coordination of transportation services, including medical appointments.
- 3. Repealed.

B. Companion care services can be arranged by licensed providers who hire companions, or services can be self-directed by the participant. The companion is a principal care provider who is at least 18 years of age who lives with the participant as a roommate and provides services in the participant's home.

1. - 2. Repealed.

#### **C. Provider Responsibilities**

1. The provider organization shall develop a written agreement as part of the participant's POC which defines all of the shared responsibilities between the companion and the participant. The written agreement shall include, but is not limited to:

a. - c. ...

2. Revisions to this agreement must be facilitated by the provider and approved by the support team. Revisions may occur at the request of the participant, the companion, the provider or other support team members.

3. The provider is responsible for performing the following functions which are included in the daily rate:

a. arranging the delivery of services and providing emergency services as needed;

b. making an initial home inspection to the participant's home, as well as periodic home visits as required by the department;

c. contacting the companion a minimum of once per week or as specified in the participant's POC; and

d. providing 24-hour oversight and supervision of the Companion Care services, including back-up for the scheduled and unscheduled absences of the companion.

4. The provider shall facilitate a signed written agreement between the companion and the participant.

a. - b. Repealed.

#### **D. Companion Responsibilities**

1. The companion is responsible for:

a. participating in and abiding by the POC;

b. ...

c. purchasing his/her own food and personal care items.

#### **E. Service Limits**

1. The provider agency must provide relief staff for scheduled and unscheduled absences, available for up to 360 hours (15 days) as authorized by the POC. Relief staff for scheduled and unscheduled absences is included in the provider agency's rate.

#### **F. Service Exclusions**

1. Companion care is not available to individuals receiving the following services:

- a. respite care service—out of home;
- b. shared living;
- c. community living supports; or
- d. host home.

2. - 2.d.Repealed.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2444 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

#### **§16307. Day Habilitation Services**

A. Day habilitation services are aimed at developing activities and/or skills acquisition to support or further community integration opportunities outside of an individual's home. These activities shall promote independence, autonomy and assist the participant with developing a full life in his community. The primary focus of Day habilitation services is acquisition of new skills or maintenance of existing skills based on individualized preferences and goals.

1. The skill acquisition and maintenance activities should include formal strategies for teaching the individualized skills and include the intended outcome for the participant.

2. ...

3. As an individual develops new skills, training should progress along a continuum of habilitation services offered toward greater independence and self-reliance.

B. Day habilitation services shall:

1. focus on enabling participants to attain maximum skills;
2. be coordinated with any physical, occupational or speech therapies included in the participant's POC;
3. – 4. ...
  - a. services are based on a one-half day unit of service and on time spent at the service site by the participant;
  - b. the one-half day unit of service requires a minimum of 2.5 hours;
  - c. two one-half day units may be billed if the participant spends a minimum of 5 hours at the service site;
  - d. any time less than 2.5 hours of services is not billable or payable; and
  - e. no rounding up of hours is allowed.

C. The provider is responsible for all transportation from the agency to all work sites related to the provision of service.

1. Transportation to and from the service site is offered and billable as a component of the day habilitation service; however, transportation is payable only when a Day Habilitation service is provided on the same day.

2. – 4.c. Repealed.

D. Participants may receive more than one type of vocational/habilitative service per day as long as the service and billing criteria are followed and as long as requirements for the minimum time spent on site are adhered to.

E. Service Exclusions

1. Time spent traveling to and from the day habilitation program site shall not be included in the calculation of the total number of day habilitation service hours provided per day.

a. Travel training for the purpose of teaching the participant to use transportation services may be included in determining the total number of service hours provided per day, but only for the period of time specified in the POC.

2. Transportation-community access will not be used to transport ROW participants to any day habilitation services.

3. Day habilitation services cannot be billed or provided during the same hours on the same day as any of the following services:

- a. community living supports;
- b. professional services, except those direct contacts needed to develop a behavioral management plan or any other type of specialized assessment/plan; or
- c. respite care services—out of home.

F. Provider Qualifications. Providers must be licensed as an adult day care agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

**§16309. Dental Services**

A. Dental services are available to adult participants over the age of 21 as a component of the ROW. Covered dental services include:

1. diagnostic services;

2. preventative services;
3. restorative services;
4. endodontic services;
5. periodontal services;
6. removable prosthodontics services;
7. maxillofacial prosthetics services;
8. fixed prosthodontics services;
9. oral and maxillofacial surgery
10. orthodontic services; and
11. adjunctive general services.

B. Service Exclusion. Participants must first access dental services covered under the Medicaid State Plan before utilizing dental services through the Residential Options Waiver.

C. Provider Qualifications. Providers must have a current, valid license to provide dental services from the Louisiana State Board of Examiners for Dentistry for the specific dental services in all specialty areas provided to the participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

**§16311. Environmental Accessibility Adaptations**

A. Environmental accessibility adaptations are physical adaptations to the participant's home or vehicle which must be specified in the POC as necessary to enable the participant to integrate more fully into the community and to ensure his/her health, welfare and safety.

1. Reimbursement shall not be paid until receipt of written documentation that the job has been completed to the satisfaction of the participant.

B. Environmental adaptation services to the home and vehicle include the following:

1. assessments to determine the types of modifications that are needed;
2. training the participant and appropriate direct care staff in the use and maintenance of devices, controls, appliances and related items;
3. repair of all equipment and/or devices, including replacement of batteries and other items that contribute to the ongoing maintenance of the adaptation(s); and
4. all service contracts and warranties which the manufacturer includes in the purchase of the item.

C. In order to accommodate the medical equipment and supplies necessary to assure the welfare of the participant, home accessibility adaptations may include the following:

1. installation of ramps and grab-bars;
2. widening of doorways;
3. modification of bathroom facilities; or
4. installation of specialized electric and plumbing systems.

D. Home accessibility adaptations may be applied to rental or leased property only under the following conditions:

1. the participant is renting or leasing the property; and
2. written approval is obtained from the landlord and OCDD.

E. - F.4.g. ...

5. Home modifications shall not be paid for in the following residential services:

- a. Host Home; or
- b. Shared Living settings which are provider owned or leased.

G. Vehicle adaptations are modifications to an automobile or van that is the waiver participant's primary means of transportation in order to accommodate his/her special needs. .

1. The modifications may include the installation of a lift or other adaptations to make the vehicle accessible to the participant or for him/her to drive.

2. Repealed.

H. Service Exclusions for Vehicle Adaptations

1. Payment will not be made to:

- a. adapt vehicles that are owned or leased by paid caregivers or providers of waiver services, or
- b. to purchase or lease a vehicle.

2. - 4. ...

I. Provider Responsibilities

1. The environmental accessibility adaptation(s) must be delivered, installed, operational and reimbursed in the POC year in which it was approved.

a. - b. Repealed.

2. A written itemized detailed bid, including drawings with the dimensions of the existing and proposed floor plans relating to the modifications, must be obtained and submitted for prior authorization.

a. Repealed.

3. Vehicle modifications must meet all applicable standards of manufacture, design and installation for all adaptations to the vehicle.

4. Upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates from manufacturers.

J. Provider Qualifications. In order to participate in the Medicaid Program, providers must meet the following qualifications.

1. Providers of environmental accessibility adaptations for the home must be registered through the Louisiana State Licensing Board for Contractors as a home improvement contractor.

a. In addition, these providers must:

- i. meet the applicable state and/or local requirements governing their licensure or certification; and
- ii. comply with the applicable state and local building or housing code standards governing home modifications.

b. The individuals performing the actual service (building contractors, plumbers, electricians, carpenters, etc.) must also comply with the applicable state and/or local requirements governing individual licensure or certification.

2. Providers of environmental accessibility adaptations to vehicles must be licensed by the Louisiana Motor Vehicle Commission as a specialty vehicle dealer and accredited by the National Mobility Equipment Dealers Association under the Structural Vehicle Modifier category.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental

Disabilities, LR 33:2446 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

### **§16313. Host Home**

A. Host home services assist participants in meeting their basic adaptive living needs and offer direct support where required. Participants are afforded a welcoming, safe and nurturing family atmosphere in a family home environment in which the participant may receive supports, services and training in accordance with the POC. Host home services take into account compatibility, including individual interests, age, needs for privacy, supervision and support needs. These services are provided in a private home by a contractor of the host home agency who lives in the home, and either rents or owns the residence. The contractor utilizes specific teaching strategies to encourage independence and autonomy when required as a part of the participant's POC.

1. Repealed.

B. Host home services include:

1. assistance with the activities of daily living and adaptive living needs;
2. assistance to develop leisure interests and daily activities in the home setting;
3. assistance to develop relationships with other members of the household;
4. supports in accessing community services, activities and pursuing and developing recreational and social interests outside the home; and
5. teaching community living skills to achieve participant's goals concerning community and social life as well as to maintain contacts with biological families and natural supports.

C. Host home provider agencies oversee and monitor the Host home contractor to ensure the availability, quality, and continuity of services as specified in the ROW manual. Host home provider agencies are responsible for the following functions:

1. arranging for a host home;
2. making an initial and periodic inspections of the host home; and
3. providing 24-hour oversight and supervision of host home services including providing emergency services and back-up for the scheduled and nonscheduled absences of the contractor;

a. Repealed.

D. Host Home contractors are responsible for:

1. assisting with the development of the participant's POC and complying with the provisions of the plan;
2. maintaining and providing data to assist in the evaluation of the participant's personal goals;
3. maintaining adequate records to substantiate service delivery and producing such records upon request;
4. undergoing any specialized training deemed necessary by the provider agency, or required by the department, to provide supports in the Host Home setting; and
5. immediately reporting to the department and applicable authorities any major issues or concerns related to the participant's safety and well-being.

6. - 10. Repealed.

E. ...



F. Host home contractors serving adults are required to be available for daily supervision, support needs or emergencies as outlined in the adult participant's POC based on medical, health and behavioral needs, age, capabilities and any special needs.

1. - 1.1. ...

2. Separate payment will not be made for the following residential service models if the participant is receiving host home services:

2.a. - 3. ...

#### J. Provider Qualifications

1. All agencies must:

a. have experience in delivering therapeutic services to persons with developmental disabilities;

b. have staff who have experience working with persons with developmental disabilities;

c. screen, train, oversee and provide technical assistance to the host home contractors in accordance with OCDD requirements, including the coordination of an array of medical, behavioral and other professional services appropriate for persons with developmental disabilities; and

d. provide on-going assistance to the host home contractors so that all HCBS requirements are met.

2. Agencies serving children must be licensed by the Department of Children and Family Services as a Class "A" Child Placing Agency.

3. Agencies serving adults must be licensed by the Department of Health and Hospitals as a provider of Substitute Family Care services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2447 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

#### **§16315. Intensive Community Supports**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2448 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

#### **§16317. Nursing Services**

A. Nursing services are medically necessary services ordered by a physician and provided by a licensed registered nurse or a licensed practical nurse within the scope of the State's Nurse Practice Act. Nursing services provided in the ROW are an extension of nursing services provided through the Home Health Program covered under the Medicaid State Plan.

1. The services require an individual nursing service plan and must be included in the plan of care.

2. The nurse must submit updates of any changes to the individual's needs and/or the physician's orders to the support coordinator every 60 days.

3. Repealed.

B. Nursing consulting services include assessments and health related training and education for participants and caregivers.

1. - 2. ...

3. The health related training and education service is the only nursing service which can be provided to more than one participant simultaneously. The cost of the service is allocated equally among all participants.

C. Service Requirement. Participants over the age of 21 years must first exhaust all available nursing visits provided under the Medicaid State Plan prior to receiving services through the waiver program.

#### D. Provider Qualifications

1. In order to participate in the Medicaid Program, the provider agency must possess a current, valid license as a home health agency or, if under the ROW shared living conversion model, be an enrolled shared living services agency with a current, valid license as a supervised independent living agency.

#### E. Staffing Requirements

1. ...

2. The RN or the LPN must possess one year of service delivery experience to persons with developmental disabilities defined under the following criteria:

a. full-time experience gained in advanced and accredited training programs (i.e. masters or residency level training programs), which includes treatment services for persons with developmental disabilities;

b. paid, full-time nursing experience in specialized service/treatment settings for persons with developmental disabilities (i.e. intermediate care facilities for persons with developmental disabilities);

c. paid, full-time nursing experience in multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for persons with dual diagnosis-mental illness and developmental disabilities); or

d. paid, full-time nursing experience in specialized educational, vocational and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program).

3. Two years of part-time experience with a minimum of 20 hours per week may be substituted for one year of full-time experience.

4. The following activities do not qualify for the required experience:

a. volunteer nursing experience; or

b. experience gained by caring for a relative or friend with developmental disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

#### **§16319. One Time Transitional Services**

A. One time transitional services are one-time, set-up services to assist individuals in making the transition from an ICF/DD to their own home or apartment in the community of their choice.

1. - 1.d.iii. Repealed.

B. Allowable transitional expenses may include:

1. nonrefundable security deposits that do not include rental payments;

2. set up fees for utilities;
3. essential furnishings to establish basic living arrangements, including:
  - a. bedroom and living room furniture;
  - b. table and chairs;
  - c. window blinds; and
  - d. food preparation items and eating utensils;
4. set-up/deposit fee for telephone service;
5. moving expenses; and
6. health and safety assurances including:
  - a. pest eradication; or
  - b. one-time cleaning prior to occupancy.

**C. Service Limits**

1. One time transitional expenses are capped at \$3,000 per person over a participant's lifetime.

**D. Service Exclusions**

1. One time transitional services may not be used to pay for:
  - a. housing, rent or refundable security deposits; or
  - b. furnishings or setting up living arrangements that are owned or leased by a waiver provider.
2. One time transitional services are not available to participants who are receiving host home services.
3. One time transitional services are not available to participants who are moving into a family member's home.

**E. ...**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

**§16321. Personal Emergency Response System (PERS)**

A. Personal emergency response system (PERS) is a system connected to the participant's telephone that incorporates an electronic device which enables the participant to secure help in an emergency. The device can be worn as a portable "help" button and when activated, a response center is contacted.

B. Participant Qualifications. PERS services are available to individuals who:

1. ...
2. are unable to use other communication systems due to experiencing difficulty in summoning emergency assistance; or
3. ...

C. PERS services includes rental of the electronic device, initial installation, training the participant to use the equipment, and monthly maintenance fees.

**D. Service Exclusions**

1. Separate payment will not be made for shared living services.

**E. Provider Qualifications**

1. The provider must be authorized by the manufacturer to install and maintain equipment for personal emergency response systems.
2. The provider shall be in compliance with all applicable federal, state, and local regulations governing the operation of personal emergency response systems including staffing requirements for the response center.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2249 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

**§16323. Prevocational Services**

A. Prevocational Services are activities designed to assist participants in acquiring and maintaining basic work-related skills necessary to acquire and retain meaningful employment. Services should include real and simulated employment tasks to assist in determining their vocational potential. Overall goals include regular community inclusion and development of work skills and habits to improve the participant's employability. Services must be reflective of the participant's POC and focused toward habilitation rather than teaching a specific job skill.

**1. - 2.b....**

B. In the event participants are compensated while receiving prevocational services, the compensation must be in accordance with the United States Fair Labor Standards Act of 1985.

1. If participants are paid in excess of 50 percent of the minimum wage, the provider must, at a minimum:

**a. - c. ...**

C. The provider is responsible for all transportation from the agency to all vocational sites related to provision of services.

1. Travel training may be included in determining the number of hours of services provided per day for the period of time specified in the participant's POC.

**a. Repealed.**

**D. Service Limits**

1. Services shall be limited to no more than eight hours per day, five days per week.

2. Services are based on a one-half day unit of service and time spent at the service site by the participant.

a. the one-half day unit of service requires a minimum of 2.5 hours at the service site by the participant;

b. two one-half day units may be billed in one day if the participant spends a minimum of 5 hours at the service site;

c. any time less than 2.5 hours of service is not billable or payable; and

d. no rounding up of hours is allowed.

3. Participants may receive more than one vocational/habilitative service per day as long as the billing criteria are followed for each service and the requirements for the minimum time spent on site are adhered to.

**a. - 5.a. Repealed.**

**E. Service Exclusions**

1. Prevocational Services are not available to participants who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

2. Multiple vocational/habilitative services cannot be provided or billed for during the same hours on the same day as the following services:

a. community living supports;

b. professional services, except those direct contacts needed to develop a behavioral management plan or other type of specialized assessment/plan; or

c. respite care services—out of home.

3. Transportation to and from the service site is only payable when a vocational/habilitative service is provided on the same day.

4. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.

a. During travel training, providers must not also bill for the transportation component as this is included in the rate for the number of service hours provided.

5. Transportation-community access shall not be used to transport ROW participants to any prevocational services.

F. Provider Qualifications. Providers must have a current, valid license as an adult day care center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

#### **§16325. Professional Services**

A. Professional services are direct services to participants, based on need, that may be utilized to increase the individual's independence, participation and productivity in the home, work and community. Service intensity, frequency and duration will be determined by individual need. Professional services must be delivered with the participant present and in accordance with approved POC.

1. – 8.a. Repealed.

B. Professional services include the services provided by the following licensed professionals:

1. occupational therapist;
2. physical therapist;
3. speech therapist;
4. registered dietician;
5. social worker; and
6. psychologist.

C. Professional services may be utilized to:

1. perform assessments and/or re-assessments specific to professional disciplines to accomplish the desired outcomes for the participant and to provide recommendations, treatment, and follow-up;

a. - b. Repealed.

2. provide training or therapy to a participant and/or natural and formal supports necessary to either develop critical skills that may be self-managed by the participant or maintained according to the participant's needs;

3. intervene in and stabilize a crisis situation (behavioral or medical) that could result in the loss of home and community-based services, including the development, implementation, monitoring, and modification of behavioral support plans;

a. Repealed.

4. provide consultative services and recommendations;

5. provide necessary information to the participant, family, caregivers, and/or team to assist in planning and implementing services or treatment;

6. provide caregiver counseling for the participant's natural, adoptive, foster, or host family members in order to develop and maintain healthy, stable relationships among all caregivers, including family members, to support meeting the needs of the participant;

a. emphasis is placed on the acquisition of coping skills by building upon family strengths; and

b. services are intended to maximize the emotional and social adjustment and well-being of the individual, family, and caregiver; and

7. provide nutritional services, including dietary evaluation and consultation with individuals or their care provider.

a. Services are intended to maximize the individual's nutritional health.

NOTE: Psychologists and social workers will provide supports and services consistent with person-centered practices and Guidelines for Support Planning.

#### **D. Service Exclusions**

1. Professional services may only be furnished and reimbursed through ROW when the services are medically necessary, or have habilitative or remedial benefit to the participant.

a. Repealed.

2. Recipients who are participating in ROW and are up to the age of 21 must access these services through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

a. - d. Repealed.

#### **E. Provider Qualifications**

1. Enrollment of individual practitioners. Individual practitioners who enroll as providers of professional services must:

a. have a current, valid license from the appropriate governing board of Louisiana for that profession; and

b. possess one year of service delivery experience with persons with developmental disabilities.

c. In addition, the specific service delivered must be consistent with the scope of the license held by the professional.

2. Provider agency enrollment of professional services.

a. The following provider agencies may enroll to provide professional services:

i. a Medicare certified free-standing rehabilitation center;

ii. a licensed home health agency;

iii. a supervised independent living agency licensed by the department to provide shared living services; or

iv. a substitute family care agency licensed by the department to provide host home services.

b. Enrolled provider agencies may provide professional services by one of the following methods:

i. employing the professionals; or

ii. contracting with the professionals.

c. Provider agencies are required to verify that all professionals employed by or contracted with their agency

meet the same qualifications required for individual practitioners as stated in §16325.E.1.a-c.

3. All professionals delivering professional services must meet the required one year of service delivery experience as defined by the following:

a. full-time experience gained in advanced and accredited training programs (i.e. master's or residency level training programs), which includes treatment services for persons with developmental disabilities;

b. paid, full-time experience in specialized service/treatment settings for persons with developmental disabilities (i.e. ICFs/DD);

c. paid, full-time experience in multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for persons with dual diagnosis—mental illness and developmental disability); or

d. paid, full-time experience in specialized educational, vocational, and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program).

e. Two years of part-time experience with a minimum of 20 hours per week of the qualifying work experience activities may be substituted for one year of full-time experience.

4. The following activities do not qualify for the professional's required service delivery experience:

a. volunteer experience; or

b. experience gained by caring for a relative or friend with developmental disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

### **§16327. Respite Care Services—Out of Home**

A. Respite care services—out of home are supports and services provided for the relief of those unpaid caregivers who normally provide care to participants who are unable to care for themselves. These services are furnished on a short-term basis in a licensed respite care center.

1. A licensed respite care facility shall insure that community activities are available to the participant in accordance with the approved POC, including transportation to and from these activities.

a. ...

2. While receiving respite care services, the participant's routine is maintained in order to attend school, school activities, or other community activities that he/she would typically participate in if not in the center-based respite facility.

#### **B. Service Limits**

1. Respite care services are limited to 720 hours per participant per POC year.

2. Requests for an extension of the service limit are subject to the department's established approval process and require proper justification and documentation.

#### **C. Service Exclusions**

1. ...

2. Respite care services-out of home may not be billed for participants receiving the following services:

a. shared living;

b. companion care; or

c. host home.

d. Repealed.

D. Provider Qualifications. The provider must possess a current, valid license as a respite care center issued by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

### **§16329. Shared Living Services**

A. Shared living services assist the participant in acquiring, retaining and improving the self-care, adaptive and leisure skills needed to reside successfully in a shared home setting within the community. Services are chosen by the participant and developed in accordance with his/her goals and wishes with regard to compatibility, interests, age and privacy in the shared living setting.

1. A shared living services provider delivers supports which include:

a. 24-hour staff availability;

b. assistance with activities of daily living included in the participant's POC;

c. a daily schedule;

d. health and welfare needs;

e. transportation;

f. any non-residential ROW services delivered by the shared living services provider; and

g. other responsibilities as required in each participant's POC.

2. - 3. Repealed.

B. An ICF/DD may elect to permanently relinquish its ICF/DD license and all of its Medicaid Facility Need Review approved beds from the total number of Certificate of Need (CON) beds for that home and convert it into a shared living waiver home or in combination with other ROW residential options as deemed appropriate in the approved conversion agreement.

1. In order to convert, provider request must be approved by the department and by OCDD.

2. ICF/DD residents who choose transition to a shared living waiver home must also agree to conversion of their residence.

3. If choosing ROW services, persons may select any ROW services and provider(s) based upon freedom of choice.

#### **C. Shared Living Options**

1. Shared Living Conversion Option. The shared living conversion option is only allowed for providers of homes which were previously licensed and Medicaid certified as an ICF/DD for up to a maximum of eight licensed and Medicaid-funded beds on October 1, 2009.

a. The number of participants for the shared living conversion option shall not exceed the licensed and Medicaid-funded bed capacity of the ICF/DD on October 1, 2009, or up to six individuals, whichever is less.

b. The ICF/DD used for the shared living conversion option must meet the department's operational,

programming and quality assurances of health and safety for all participants.

c. The provider of shared living services is responsible for the overall assurances of health and safety for all participants.

d. The provider of shared living conversion option may provide nursing services and professional services to participants utilizing this residential services option.

2. Shared Living Non-Conversion (New) Option. The shared living non-conversion option is allowed only for new or existing ICF/DD providers to establish a shared living waiver home for up to a maximum of three individuals.

a. The shared living waiver home must be located separate and apart from any ICF/DD.

b. The shared living waiver home must be either a home owned or leased by the waiver participants or a home owned or leased and operated by a licensed shared living provider.

c. The shared living waiver home must meet department's operational, programming and quality assurances for home and community-based services.

d. The shared living provider is responsible for the overall assurances of health and safety for all participants.

#### D. Service Exclusions

1. ...

2. Payments shall not be made for environmental accessibility adaptations when the provider owns or leases the residence.

3. Participants may receive one-time transitional services only if the participant owns or leases the home and the service provider is not the owner or landlord of the home.

a. – d. Repealed.

4. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

5. Transportation-community access services cannot be billed or provided for participants receiving shared living services, as this is a component of shared living services.

6. The following services are not available to participants receiving shared living services:

a. community living supports;

b. respite care services;

c. companion care;

d. host home; or

e. personal emergency response system.

E. Provider Qualifications. Providers must be approved by the department and have a current, valid license as a supervised independent living agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

#### **§16331. Specialized Medical Equipment and Supplies**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), repealed by the

Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

#### **§16333. Support Coordination**

A. Support coordination services are provided to all ROW participants to assist them in gaining access to needed waiver services, Medicaid State Plan services, as well as needed medical, social, educational and other services, regardless of the funding source for the services. Support coordinators provide information and assistance to waiver participants by directing and managing their services in compliance with the rules and regulations governing case management services.

1. Support coordinators shall be responsible for ongoing monitoring of the provision of services included in the participant's approved POC.

2. Support coordinators shall also participate in the evaluation and re-evaluation of the participant's POC.

B. Support coordinators are responsible for providing assistance to participants who choose the self-direction option with their review of the Self-Direction Employer Handbook and for being available to these participants for on-going support and help with carrying out their employer responsibilities.

C. Provider Qualifications. Providers must have a current, valid license as a case management agency and meet all other requirements for targeted case management services as set forth in LAC 50:XV.Chapter 105 and the Medicaid Targeted Case Management Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

#### **§16335. Supported Employment**

A. Supported employment provides assistance in an integrated work setting to assist in the achievement and attainment of work related skills and includes on-going support to maintain employment.

1. - 3. Repealed.

B. Supported employment services include:

1. ...

2. services that assist a participant to develop and operate a micro-enterprise;

a. This service consists of:

i. assisting the participant to identify potential business opportunities;

ii. ...

iii. identification of the supports that are necessary in order for the participant to operate the business; and

iv. ...

3. enclave services which is an employment situation in competitive employment in which a group of eight or fewer workers with disabilities are working at a particular work setting. The workers with disabilities may be disbursed throughout the company and among workers without disabilities or congregated as a group in one part of the business;

4. mobile work crews which is a group of eight or fewer workers with disabilities who perform work in a

variety of locations under the supervision of a permanent employment specialist (job coach/supervisor); and

5. all transportation from the agency to all work sites related to provision of the service. The provider is responsible for furnishing the transportation.

**C. Service Limits**

1. The required minimum number of service hours per day per participant is as follows for:

- a. individual placement services, the minimum is one hour;
- b. services that assist a participant to develop and operate a micro-enterprise, the minimum is one hour;
- c. an enclave, the minimum is 2.5 hours; and
- d. a mobile work crew, the minimum is 2.5 hours.

2. Two half-day units may be billed if the participant spends a minimum of five hours at the service site.

3. Participants may receive more than one vocational or habilitative service per day as long as the service and billing requirements for each service are met.

4. Transportation to and from the service site is offered and billable as a component of the support employment service; however, transportation is payable only when a supported employment service is provided on the same day.

**D. Service Exclusions**

1. ...
2. Any time less than one hour for individual placement and micro-enterprise is not billable or payable.
3. - 3.c....
4. Any time less than 2.5 hours for enclaves and mobile crews is not billable or payable.
5. ...

a. Travel training for the purpose of teaching the recipient how to use transportation services may be included in determining the total service numbers hours provided per day, but only for the period of time specified in the POC.

6. - 6.c....

7. Services are not available to individuals who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

8. No rounding up of hours is allowed.

**E. Provider Qualifications.** In order to enroll in the Medicaid Program, providers must have a compliance certificate from the Louisiana Rehabilitation Services as a community rehabilitation program or a current, valid license as an Adult Day Care Center.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

**§16337. Transportation-Community Access**

**A.** Transportation-community access services enable participants to gain access to waiver and other community services, activities and resources. These services are necessary to increase independence, productivity, community inclusion and to support self-directed employees benefits as outlined in the participant's POC. Transportation-

community access services shall be offered as documented in the participant's approved POC.

1. The participant must be present to receive this service.

2. Whenever possible, the participant must utilize the following resources for transportation:

a. - b. ...

**B. Service Limits**

1. Community access trips are limited to three per day and must be arranged for geographic efficiency.

2. Greater than three trips per day require approval from the department or its designee.

a. Repealed.

**C. Service Exclusions**

1. Transportation services offered through ROW shall not replace the medical transportation services covered under the Medicaid State Plan or transportation services provided as a means to get to and from school.

2. Separate payment will not be made for transportation-community access and the following services:

- a. shared living services; or
- b. community living services.

3. Transportation-community access will not be used to transport participants to day habilitation, pre-vocational, or supported employment services.

**D. Provider Qualifications.** Friends and family members who furnish transportation-community access services to waiver participants must be enrolled as Medicaid friends and family transportation providers.

1. In order to receive reimbursement for transporting Medicaid recipients to waiver services, family and friends must maintain:

- a. the state minimum automobile liability insurance coverage;
- b. a current state inspection sticker; and
- c. a current valid driver's license.

2. No special inspection by the Medicaid agency will be conducted.

a. - b. Repealed.

3. Documentation of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the Medicaid agency is sought. Acceptable documentation shall be the signed statement of the individual enrolling for payment that all three requirements are met.

a. The statement must also have the signature of two witnesses.

4. Family and friends transportation providers are limited to transporting up to three specific waiver participants.

**E. Vehicle Requirements.** All vehicles utilized by for profit and non-profit transportation services providers for transporting waiver recipients must comply with all of the applicable state laws and regulations and are subject to inspection by the department or its designee.

E.1. - G. Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2454 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services

## **Chapter 165. Self-Direction Initiative**

### **§16501. Self-Direction Service Option**

A. The self-direction initiative is a voluntary, self-determination option which allows the waiver participant to coordinate the delivery of designated ROW services through an individual direct support professional rather than through a licensed, enrolled provider agency. Selection of this option requires that the recipient utilize a payment mechanism approved by the department to manage the required fiscal functions that are usually handled by a provider agency.

B. Recipient Responsibilities. Waiver participants choosing the self-direction service option must understand the rights, risks and responsibilities of managing their own care and individual budget. If the participant is unable to make decisions independently, he must have an authorized representative who understands the rights, risks and responsibilities of managing his care and supports within his individual budget. Responsibilities of the participant or authorized representative include:

1. - 2. ...

a. Participants must adhere to the health and welfare safeguards identified by the support team, including:

i. ...

ii. compliance with the requirement that employees under this option must have criminal background checks prior to working with waiver participants;

3. ...

a. This annual budget is determined by the recommended service hours listed in the participant's POC to meet his needs.

b. The participant's individual budget includes a potential amount of dollars within which the participant, or his authorized representative, exercises decision-making responsibility concerning the selection of services and service providers.

C. Termination of Self-Direction Service Option. Termination of participation in the self-direction service option requires a revision of the POC, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

1. Voluntary Termination. The waiver participant may choose at any time to withdraw from the self-direction service option and return to the traditional provider agency management of services.

2. Involuntary termination. The department may terminate the self-direction service option for a participant and require him to receive provider-managed services under the following circumstances:

a. the health or welfare of the participant is compromised by continued participation in the self-direction service option;

b. the participant is no longer able to direct his own care and there is no responsible representative to direct the care;

c. there is misuse of public funds by the participant or the authorized representative; or

d. over three payment cycles in the period of a year, the participant or authorized representative:

i. ...

ii. fails to follow the Personal Purchasing Plan and the POC;

C.2.d.iii. - D. ...

E. Relief coverage for scheduled or unscheduled absences, which are not classified as respite care services, can be covered by other participant-directed providers and the terms can be part of the agreement between the participant and the primary Companion Care provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

## **Chapter 167. Provider Participation**

### **§16701. General Provisions**

A. ...

1. meet all of the requirements for licensure and the standards for participation in the Medicaid Program as a home and community-based services provider in accordance with state laws and the rules promulgated by the department;

2. comply with the regulations and requirements specified in LAC 50:XXI, Subparts 1 and 13 and the ROW provider manual;

3. comply with all of the state laws and regulations for conducting business in Louisiana, and when applicable, with the state requirements for designation as a non-profit organization; and

4. comply with all of the training requirements for providers of waiver services.

B. Providers must maintain adequate documentation to support service delivery and compliance with the approved POC and provide said documentation upon the department's request.

C. In order for a provider to bill for services, the waiver participant and the direct service worker or professional services practitioner rendering service must be present at the time the service is rendered.

1. Exception. The following services may be provided when the participant is not present:

a. - c. ...

2. All services must be documented in service notes which describe the services rendered and progress towards the participant's personal outcomes and his/her POC.

D. If transportation is provided as part of a waiver service, the provider must comply with all of the state laws and regulations applicable to vehicles and drivers.

E. All services rendered shall be prior approved and in accordance with the POC.

F. Providers, including direct care staff, cannot live in the same residence as the participant, except Host Home contractors and Companion Care workers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

### **§16703. Staffing Restrictions and Requirements**

A. Payments shall not be made to persons who are legally responsible for the care of the waiver participants which include:

1. parents of minor children;
2. spouses for each other;
3. legal guardians for adults or children with developmental disabilities; or
4. parents for their adult child with developmental disabilities, regardless of the legal status of the adult child.

B. In order to receive payment, relatives must meet the criteria for the provision of the service and the same provider qualifications specified for the service as other providers not related to the participant.

1. Relatives must also comply with the following requirements:

- a. become an employee of the participant's chosen waiver provider agency;
- b. become a Medicaid enrolled provider agency; or
- c. if the self-direction option is selected, relatives must:

- i. become an employee of the self-direction participant; and
- ii. have a Medicaid provider agreement executed by the fiscal agent as authorized by the Medicaid agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

### **Chapter 169. Reimbursement**

#### **§16901. Reimbursement Methodology**

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service, which covers both the service provision and administrative costs for these services:

1. - 3.e....
- f. registered dietician;
4. support coordination; or
5. supported employment:
  - a. individual placement; and
  - b. micro-enterprise.
6. Repealed.

B. The following services are reimbursed at the cost of the adaptation device, equipment or supply item:

1. environmental accessibility adaptations; and
  - a. upon completion of the environmental accessibility adaptations and prior to submission of a claim for reimbursement, the provider shall give the participant a certificate of warranty for all labor and installation work and supply the participant with all manufacturers' warranty certificates;
2. assistive technology/specialized medical equipment and supplies.
3. Repealed.

C. The following services are reimbursed at a per diem rate:

1. ...
2. companion cares; and
3. shared living services;

a. Per diem rates are established based on the number of individuals sharing the living service module for both shared living non-conversion and shared living conversion services.

D. The following services are reimbursed at a per one-half-day unit of service based on a minimum of 2.5 hours spent on-site by the participant:

1. day habilitation;
2. pre-vocational; and
3. supported employment:
  - a. mobile crew; and
  - b. enclave.

E. ...

F. Nursing services are reimbursed at either an hourly or per visit rate for the allowable procedure codes.

G. ...

H. Transition expenses from an ICF/DD or nursing facility to a community living setting are reimbursed at the cost of the service(s) up to a lifetime maximum rate of \$3,000.

I. - J. ...

K. Effective for dates of service on or after August 1, 2010, the reimbursement for Residential Options Waiver services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

1. The following services shall be excluded from the rate reduction:

- a. personal emergency response services;
- b. environmental accessibility adaption services;
- c. specialized medical equipment and supplies; and
- d. support coordination services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

#### **§16903. Direct Support Staff Wages**

A. In order to maximize staffing stability and minimize turnover among direct support staff, providers of the following services furnished under the Residential Options Waiver are required to pay direct support workers an hourly wage that is at least 29 percent (\$1.50) more than the federal minimum wage in effect as of July 23, 2007 or the current federal minimum wage, whichever is higher:

1. community living supports;
2. respite services-out of home;
3. shared living;
4. day habilitation;
5. pre-vocational services; and
6. supported employment.
7. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O.



Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Secretary

1504#050

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

Medicaid Eligibility  
Medically Needy Program  
Behavioral Health Services  
(LAC 50:III.2313)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals and replaces all of the Rules governing the Medically Needy Program, and adopts LAC 50:III.2313 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule in order to reinstate the Title XIX Medically Needy Program (MNP) and to establish coverage restrictions (*Louisiana Register*, Volume 24, Number 5). All Behavioral health services are restricted from coverage under the Medically Needy Program.

In February 2012, the department adopted provisions in the Medicaid Program to restructure the existing behavioral health services delivery system into a comprehensive service delivery model called the Louisiana Behavioral Health Partnership (LBHP). Certain recipients enrolled in the Medically Needy Program, whose Medicaid eligibility is based solely on the provisions of §1915(i) of Title XIX of the Social Security Act, are eligible to only receive behavioral health services. These recipients have difficulties accessing behavioral health services through the LBHP due to the service restrictions currently in place in the Medically Needy Program.

Therefore, the department promulgated an Emergency Rule which revised the provisions governing the Medically Needy Program in order to include behavioral health coverage for MNP recipients that qualify for the program under the provisions of §1915(i) of Title XIX of the Social Security Act. This Emergency Rule also repealed and replaced all of the Rules governing the Medically Needy Program in order to repromulgate these provisions in a clear and concise manner for inclusion in the *Louisiana Administrative Code* in a codified format (*Louisiana Register*, Volume 38, Number 12).

The department promulgated an Emergency Rule which amended the provisions governing the Medically Needy Program to further clarify the provisions governing covered services (*Louisiana Register*, Volume 39, Number 4). The department promulgated an Emergency Rule which amended the April 20, 2013 Emergency Rule to further clarify the provisions governing covered services (*Louisiana Register*, Volume 40, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2014 Emergency Rule.

This action is being taken to promote the health and welfare of MNP recipients who are in need of behavioral health services, and to assure their continued access to these services.

Effective May 19, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Medically Needy Program.

### **Title 50**

## **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part III. Eligibility**

### **Subpart 3. Eligibility Groups and Factors**

### **Chapter 23. Eligibility Groups and Medicaid Programs**

### **§2313. Medically Needy Program**

A. The Medically Needy Program (MNP) provides Medicaid coverage when an individual's or family's income and/or resources are sufficient to meet basic needs in a categorical assistance program, but not sufficient to meet medical needs according to the MNP standards.

1. The income standard used in the MNP is the federal medically needy income eligibility standard (MNIES).

2. Resources are not applicable to child-(C-) related MNP cases.

3. MNP eligibility cannot be considered prior to establishing income ineligibility in a categorically related assistance group.

#### **B. MNP Eligibility Groups**

#### **1. Regular Medically Needy**

a. Children and parents who meet all of the low-income families with children (LIFC) related categorical requirements and whose income is at or below the MNIES are eligible to receive regular MNP benefits. Regular medically needy coverage is only applicable to individuals included in the C-related category of assistance.

b. Individuals in the aged (A-), blind (B-), or disability (D-) related categorical assistance groups cannot receive regular MNP.

c. The certification period for regular MNP cannot exceed six months.

#### **2. Spend-Down Medically Needy**

a. Spend-down MNP is considered after establishing financial ineligibility in regular MNP or other categorically related Medicaid programs and excess income remains. Allowable medical bills/expenses incurred by the income unit are used to reduce (spend-down) the income to the allowable MNP limits.

b. The following individuals may be considered for spend-down MNP:

i. individuals or families who meet all of the LIFC related categorical requirements;

ii. non-institutionalized individuals (A-, B-, or D-related categories); and

iii. institutionalized individuals or couples (A-, B-, or D-related categories) with Medicare co-insurance whose income has been spent down to the MNIES.

c. The certification period for spend-down MNP begins no earlier than the spend-down date and shall not exceed three months.

3. Long Term Care (LTC) Spend-Down MNP

a. Individuals or couples residing in Medicaid LTC facilities, not on Medicare-coinsurance with resources within the limits, but whose income exceeds the special income limits (three times the current federal benefit rate), are eligible for LTC spend-down MNP.

4. C-Related Caretaker Relative MNP

a. A qualified relative may be included in a C-related MNP certification as a caretaker relative. There must be at least one minor child applying for or enrolled in Medicaid. A caretaker relative for MNP purposes is an adult who:

i. is in the LIFC income unit with a minor child;

ii. is a qualified relative of a child who is eligible for supplemental security income (SSI), prohibited AFDC provisions (PAP), or Child Health and Maternity Program (CHAMP); and

iii. is not eligible for inclusion in the Medicaid certification of a sibling(s) because of income.

b. An essential person may be included with a qualified relative in an MNP caretaker relative certification, but there can be no essential person if there is no qualified relative certified in C-related MNP.

i. Stepparents or individuals who do not meet the above LIFC essential person criteria must qualify for Medicaid as individuals under the A, B, or D categorical assistance groups.

5. Louisiana Behavioral Health Partnership (LBHP) 1915(i) MNP

a. The LBHP Medically Needy Program is considered only for the individuals who meet the level of need requirements of §1915 of title XIX of the Social Security Act, and who have been determined to be ineligible for other full Medicaid programs, including the regular MNP and spend-down MNP.

b. LBHP 1915(i) MNP recipients are only eligible to receive behavioral health services through the LBHP. They do not qualify for other Medicaid covered services.

c. The certification period for LBHP 1915(i) regular MNP recipients cannot exceed six months. For the LBHP 1915(i) spend-down MNP, the certification period begins no earlier than the spend-down date and shall not exceed three months.

C. The following services are covered in the Medically Needy Program for non-1915(i) recipients:

1. inpatient and outpatient hospital services;

2. intermediate care facilities for persons with intellectual disabilities (ICF/ID) services;

3. intermediate care and skilled nursing facility (ICF and SNF) services;

4. physician services, including medical/surgical services by a dentist;

5. nurse midwife services;

6. certified registered nurse anesthetist (CRNA) and anesthesiologist services;

7. laboratory and x-ray services;

8. prescription drugs;

9. early and periodic screening, diagnosis and treatment (EPSDT) services;

10. rural health clinic services;

11. hemodialysis clinic services;

12. ambulatory surgical center services;

13. prenatal clinic services;

14. federally qualified health center services;

15. family planning services;

16. durable medical equipment;

17. rehabilitation services (physical therapy, occupational therapy, speech therapy);

18. nurse practitioner services;

19. medical transportation services (emergency and non-emergency);

20. home health services for individuals needing skilled nursing services;

21. chiropractic services;

22. optometry services;

23. podiatry services;

24. radiation therapy; and

25. behavioral health services.

D. The following behavioral health services are covered for LBHP 1915(i) MNP recipients:

1. inpatient and outpatient hospital services;

2. emergency medical services;

3. physician/psychiatrist services;

4. treatment by a licensed mental health professional;

5. community psychiatric support and treatment;

6. psychosocial rehabilitation;

7. crisis intervention;

8. case conference [1915(b) services];

9. treatment planning [1915(b) services]; and

10. prescription drugs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Secretary

1504#051

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Medical Transportation Program  
Emergency Aircraft Transportation  
Rotor Winged Ambulance Services Rate Increase  
(LAC 50:XXVII.353)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXVII.353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In anticipation of a budgetary shortfall in state fiscal year 2013 as a result of the reduction in the state's disaster recovery Federal Medical Assistance Percentage (FMAP) rate, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 40, Number 7). The department promulgated an Emergency Rule which amended the provisions governing reimbursement for emergency medical aircraft transportation in order to increase the rates for services originating in rural areas (*Louisiana Register*, Volume 40, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2014 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to emergency medical aircraft transportation services.

Effective May 1, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for emergency medical aircraft transportation services to increase the reimbursement rates for rural areas.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXVII. Medical Transportation Program

#### Chapter 3. Emergency Medical Transportation

#### Subchapter C. Aircraft Transportation

#### §353. Reimbursement

A. - H. ...

I. Effective for dates of service on or after September 1, 2014, the reimbursement rates for rotor winged emergency air ambulance services, which originate in areas designated as rural and/or super rural by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, shall be increased to the following rates:

1. base rate, \$4,862.72 per unit; and
2. mileage rate, \$33.65 per unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2594 (November 2010), amended LR 37:3029

(October 2011), LR 39:1285 (May 2013), LR 40:1379 (July 2014), LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Secretary

1504#052

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities  
Licensing Standards  
(LAC 48:I.9704, 9707, and Chapter 99)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.9704, §9707 and Chapter 99 in the Medical Assistance Program as authorized by R.S. 36:254. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the licensing standards governing nursing facilities in order to clarify the provisions for Alzheimer's special care disclosure, and to revise the provisions governing approval of plans and physical environment (*Louisiana Register*, Volume 40, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2014 Emergency Rule. This action is being taken to promote the health and well-being of Louisiana residents in nursing facilities.

Effective May 18, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the licensing standards for nursing facilities.

#### Title 48

### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing and Certification

#### Chapter 97. Nursing Facilities

#### Subchapter A. General Provisions

#### §9704. Alzheimer's Special Care Disclosure

A. - D.5. ...

E. The provider's Alzheimer's special care disclosure documentation shall contain the following information:

1. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.121-1300.125.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 27:312 (March 2001), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

## **§9707. Approval of Plans**

A. Plans and specifications for new construction of, or to, a nursing facility, and for any major alterations or renovations to a nursing facility, shall be submitted for approval to the Department of Public Safety, Office of the State Fire Marshal for review in accordance with R.S. 40:1563(L), R.S.40:1574 and LAC 55:V.Chapter 3.

1. Plans and specifications for new construction, major alterations, and major renovations shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer where required by the Louisiana architecture and engineering licensing laws of R.S. 37:141, et seq., R.S. 37:681 et seq., and respective implementing regulations.

2. No residential conversions shall be considered for a nursing facility license.

B. The plans and specifications shall comply with all of the following:

1. DHH nursing facility licensing requirements and the Office of Public Health's (OPH) nursing home regulations (see LAC 51:XX); and

2. the Office of the State Fire Marshal's requirements for plan submittals and compliance with all codes required by that office.

2.a. - 3. Repealed.

C. Notice of satisfactory review from the department and the Office of the State Fire Marshal constitutes compliance with this requirement, if construction begins within 180 days of the date of such notice. This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes, or rules of any responsible agency.

C.1. - E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:46 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2630 (September 2011), amended LR 41:

## **Chapter 99. Nursing Facilities**

### **Subchapter A. Physical Environment**

#### **§9901. General Provisions**

A. The nursing facility shall be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.

B. The nursing facility shall provide a safe, clean, orderly, homelike environment.

C. If the nursing facility determines that a licensing provision of this Subchapter A prohibits the provision of a culture change environment, the nursing facility may submit a written waiver request to the Health Standards Section (HSS) of the Department of Health and Hospitals, asking that the provision be waived and providing an alternative to the licensing provision of this Subchapter. The department shall consider such written waiver request, shall consider the health and safety concerns of such request and the proposed alternative, and shall submit a written response to the nursing facility within 60 days of receipt of such waiver request.

D. Any construction-related waiver or variance request of any provision of the *Public Health—Sanitary Code* (LAC

51) shall be submitted in writing to the State Health Officer for his/her consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

#### **§9903. Nurse/Care Team Work Areas**

A. Each floor and/or household of a nursing facility shall have a nurse/care team work area in locations that are suitable to perform necessary functions. These nurse/care team work areas may be in centralized or decentralized locations, as long as the locations are suitable to perform necessary functions.

1. Each centralized nurse/care team area shall be equipped with working space and accommodations for recording and charting purposes by nursing facility staff with secured storage space for in-house resident records.

a. Exception. Accommodations for recording and charting are not required at the central work area where decentralized work areas are provided.

2. Each decentralized work area, where provided, shall contain working space and accommodations for recording and charting purposes with secured storage space for administrative activities and in-house resident records.

3. The nurse/care team work areas shall be equipped to receive resident calls through a communication system from resident rooms, toileting and bathing facilities.

a. In the case of an existing centralized nurse/care team work area, this communication may be through audible or visible signals and may include wireless systems.

b. In those facilities that have moved to decentralized nurse/care team work areas, the facility may utilize other electronic systems that provide direct communication from the resident to the staff.

B. There shall be a medicine preparation room or area. Such room or area shall contain a work counter, preparation sink, refrigerator, task lighting and lockable storage for controlled drugs.

C. There shall be a clean utility room on each floor designed for proper storage of nursing equipment and supplies. Such room shall contain task lighting and storage for clean and sterile supplies.

D. There shall be a separate soiled utility room designed for proper cleansing, disinfecting and sterilizing of equipment and supplies. At a minimum, it shall contain a clinical sink or equivalent flushing-rim sink with a rinsing hose or bed pan sanitizer, hand washing facilities, soiled linen receptacles and waste receptacle. Each floor of a nursing facility shall have a soiled utility room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

#### **§9905. Resident Rooms**

A. ...

B. Each resident's bedroom shall have a floor at or above grade level, shall accommodate a maximum of two

residents, and be so situated that passage through another resident's bedroom is unnecessary.

1. Exception. Resident bedrooms in existing nursing facilities shall be permitted to accommodate no more than four residents unless the cost of renovations to the existing nursing facility exceeds the values stipulated by R.S. 40:1574.

C. Private resident bedrooms shall measure at least 121 square feet of bedroom area, exclusive of wardrobes, closet space, vestibules or toilet rooms, and shall have a clear width of not less than 11 feet.

D. Double occupancy resident bedrooms containing two beds shall measure at least 198 square feet of bedroom area, exclusive of wardrobes, closet space, vestibules or toilet rooms, and shall have a clear width of not less than 11 feet.

E. In existing nursing facilities, or portions thereof, where plans were approved by the department and the Office of State Fire Marshal prior to January 20, 1998, there shall be at least three feet between the sides and foot of the bed and any wall, other fixed obstruction, or other bed, unless the furniture arrangement is the resident's preference and does not interfere with service delivery.

F. Each resident's bedroom shall have at least one window to the outside atmosphere with a maximum sill height of 36 inches. Windows with sills less than 30 inches from the floor shall be provided with guard rails.

1. Each resident's bedroom window shall be provided with shades, curtains, drapes, or blinds.

2. Operable windows shall be provided with screens.

G - H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

#### **§9907. Resident Room Furnishings**

A. ...

1. a clean supportive frame in good repair;

2. - 5. ...

B. Screens or noncombustible ceiling-suspended privacy curtains which extend around the bed shall be provided for each bed in multi-resident bedrooms to assure resident privacy. Total visual privacy without obstructing the passage of other residents either to the corridor, closet, lavatory, or adjacent toilet room nor fully encapsulating the bedroom window shall be provided.

C. Each resident shall be provided with a call device located within reach of the resident.

D. Each resident shall be provided a bedside table with at least two drawers. As appropriate to resident needs, each resident shall have a comfortable chair with armrests, waste receptacle, and access to mirror unless medically contraindicated.

1. Each resident who has tray service to his/her room shall be provided with an adjustable overbed table positioned so that the resident can eat comfortably.

E. Each resident shall be provided an individual closet that has minimum dimensions of 1 foot 10 inches in depth by 2 feet 6 inches in width. A clothes rod and shelf shall be provided that is either adjustable or installed at heights accessible to the resident. Accommodations shall be made

for storage of full-length garments. The shelf may be omitted if the closet provides at least two drawers. The following exceptions may apply.

1. Individual wardrobe units having nominal dimensions of 1 foot 10 inches in depth by 2 feet 6 inches in width are permitted. A clothes rod and shelf shall be provided that is either adjustable or installed at heights accessible to the resident. Accommodations shall be made for storage of full-length garments. The shelf may be omitted if the unit provides at least two drawers.

2. In existing nursing facilities, or portions thereof, where plans were approved by the department and the State Fire Marshal prior to January 20, 1998, each resident shall be provided an individual wardrobe or closet that has nominal dimensions of 1 foot 10 inches in depth by 2 feet in width.

F. Each resident shall be provided with a bedside light or over-the-bed light capable of being operated from the bed.

1. Nursing facilities, or portions thereof, where plans were approved by the department and the State Fire Marshal prior to May 1, 1997 shall be exempt from this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

#### **§9909. Locked Units, Restraints and Seclusion**

A. Locked Units

1. Nursing facilities may have specific locked units for housing residents suffering from severe dementia or Alzheimer's disease. The locked units may only house, limit and restrict free access of those residents suffering from severe dementia or Alzheimer's who may be a danger to themselves or others.

2. Nursing facilities providing locked units shall develop admission criteria. There shall be documentation in the resident's record to indicate the unit is the least restrictive environment possible, and placement in the unit is needed to facilitate meeting the resident's needs.

3. Guidelines for admission shall be provided to the resident, his/her family and his/her authorized representative.

4. Locked units are designed and staffed to provide the care and services necessary for the resident's needs to be met.

a. The locked unit shall have designated space for dining and/or group and individual activities that is separate and apart from the resident bedrooms and bathrooms;

b. The dining space shall contain tables for eating within the locked unit.

c. The activities area(s) shall contain seating, and be accessible to the residents within the locked unit.

5. There shall be sufficient staff to respond to emergency situations in the locked unit at all times.

6. The resident on the locked unit has the right to exercise those rights which have not been limited as a result of admission to the unit.

7. Care plans shall address the reasons for the resident being in the unit and how the nursing facility is meeting the resident's needs.

8. All staff designated to provide care and services on locked units shall have training regarding unit policies and procedures, admission and discharge criteria, emergency situations and the special needs of the residents on the unit.

9. Admission to a locked unit shall be in compliance with R.S. 40:1299.53 and 40:2010.8.

B. Restraints. The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms.

C. Seclusion. The resident has the right to be free from verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.

D. - G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

### **§9911. Hand-Washing Stations, Toilet Rooms and Bathing Facilities**

A. A hand-washing station shall be provided in each resident room.

1. Omission of this station shall be permitted in a single-bed or two-bed room when a hand-washing station is located in an adjoining toilet room that serves that room only.

B. Each resident shall have access to a toilet room without having to enter the corridor area. In nursing facilities built prior to August 26, 1958, each floor occupied by residents shall be provided with a toilet room and hand-washing station.

1. One toilet room shall serve no more than two residents in new construction or no more than two resident rooms in renovation projects. In nursing facilities built prior to August 26, 1958, toilets and hand-washing stations shall each be provided at a rate of 1 per 10 beds or fraction thereof.

2. Toilet rooms shall be easily accessible, conveniently located, well lighted and ventilated to the outside atmosphere. Fixtures shall be of substantial construction, in good repair and of such design to enable satisfactory cleaning.

3. Separate male and female toilet rooms for use by staff and guests shall be provided.

4. Each toilet room shall contain a toilet, hand-washing station and mirror.

5. Doors to single-use resident toilet rooms shall swing out of the room.

6. Doors to single-use resident toilet rooms shall be permitted to utilize privacy locks that include provisions for emergency access.

7. In multi-use toilet rooms provisions shall be made for resident privacy.

C. Each floor occupied by residents shall be provided with a bathing facility equipped with a toilet, hand-washing station, and bathing unit consisting of a bathtub, shower, or whirlpool unit.

Table. Repealed.

1. A minimum of one bathtub, shower, or whirlpool unit shall be provided for every 10 residents, or fraction

thereof, not otherwise served by bathing facilities in resident rooms. In nursing facilities built prior to August 26, 1958, showers or tubs shall each be provided at a rate of 1 per 15 beds or fraction thereof.

2. Bathing facilities shall be easily accessible, conveniently located, well lighted and ventilated to the outside atmosphere. Fixtures shall be of substantial construction, in good repair, and of such design to enable satisfactory cleaning.

3. Tub and shower bottoms shall be of nonslip material. Grab bars shall be provided to prevent falling and to assist in maneuvering in and out of the tub or shower.

4. Separate bathing facilities shall be provided for employees who live on the premises.

5. In multi-use bathing facilities provisions shall be made for resident privacy.

6. Wall switches for controlling lighting, ventilation, heating or any other electrical device shall be so located that they cannot be reached from a bathtub, shower, or whirlpool.

D. - H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

### **§9913. Dining and Resident Activities**

A. The nursing facility shall provide one or more areas designated for resident dining and activities.

B. Smoking is not permitted in the dining room and other public areas as specified by R.S. 40:1300.256(B)(11).

C. Dining room(s) or dining area(s) shall be sufficient in space and function to accommodate the needs of the residents without restriction. Dining areas shall be adequately furnished, well lighted, and well ventilated. Dining areas shall be sufficient in space to comfortably accommodate the persons who usually occupy that space, including persons who utilize walkers, wheelchairs and other ambulating aids or devices.

D. There shall be at least one well lighted and ventilated living/community room with sufficient furniture.

E. There shall be sufficient space and equipment to comfortably accommodate the residents who participate in group and individual activities. These areas shall be well lighted and ventilated and be adequately furnished to accommodate all activities.

F. Areas used for corridor traffic or for storage of equipment shall not be considered as areas for dining or activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

### **§9915. Linen and Laundry**

A. The nursing facility shall have available, at all times, a quantity of bed and bath linen essential for proper care and comfort of residents.

B. - G. ...

H. Clean linen shall be transported and stored in a manner to prevent its contamination.

I. Nursing facilities providing in-house laundry services shall have a laundry system designed to eliminate crossing of soiled and clean linen.

J. Nursing facilities that provide in house laundry services and/or household washers and dryers shall have policies and procedures to ensure safety standards, infection control standards and manufacturer's guidelines are met.

K. There shall be hand washing facilities available for use in any designated laundry area.

L. Provisions shall be made for laundering personal clothing of residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

#### **§9917. Equipment and Supplies**

A. The nursing facility shall maintain all essential mechanical, electrical, and resident care equipment in safe operating condition.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

#### **§9919. Other Environmental Conditions**

A. A hard surfaced off-the-road parking area to provide parking for one car per five licensed beds shall be provided. This is a minimum requirement and may be exceeded by local ordinances. Where this requirement would impose an unreasonable hardship, a written request for a lesser amount may be submitted to the department for waiver consideration.

B. The nursing facility shall make arrangements for an adequate supply of safe potable water even when there is a loss of normal water supply. Service from a public water supply must be used, if available. Private water supplies, if used, shall meet the requirements of the LAC Title 51, *Public Health—Sanitary Code*.

C. An adequate supply of hot water shall be provided which shall be adequate for general cleaning, washing and sanitization of cooking and food service dishes and other utensils and for bathing and laundry use. Hot water supply to the hand washing and bathing faucets in the resident areas shall have automatic control to assure a temperature of not less than 100°F, nor more than 120°F, at the faucet outlet. Supply system design shall comply with the Louisiana state *Plumbing Code* and shall be based on accepted engineering procedures using actual number and types of fixtures to be installed.

D. The nursing facility shall be connected to the public sewerage system, if such a system is available. Where a public sewerage is not available, the sewerage disposal system shall conform to the requirements of the LAC Title 51, *Public Health—Sanitary Code*.

E. The nursing facility shall maintain a comfortable sound level conducive to meeting the need of the residents.

F. All plumbing shall be properly maintained and conform to the requirements of the LAC Title 51, *Public Health—Sanitary Code*.

G. All openings to the outside atmosphere shall be effectively screened. Exterior doors equipped with closers in air conditioned buildings need not have screens.

H. Each room used by residents shall be capable of being heated to a minimum of 71°F in the coldest weather and capable of being cooled to a maximum of 81°F in the warmest weather.

I. Lighting levels in all areas shall be adequate to support task performance by staff personnel and independent functioning of residents. A minimum of 6' to 10' candelas over the entire stairway, corridors, and resident rooms measured at an elevation of 30 inches above the floor and a minimum of 20' to 30' candelas over areas used for reading or close work shall be available.

J. Corridors used by residents shall be equipped on each side with firmly secured handrails, affixed to the wall. Handrails shall comply with the requirements of the state adopted accessibility guidelines.

K. There shall be an effective pest control program so that the nursing facility is free of pest and rodent infestation.

L. - R. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to [MedicaidPolicy@la.gov](mailto:MedicaidPolicy@la.gov). Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Secretary

1504#053

### **DECLARATION OF EMERGENCY**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

State Children's Health Insurance Program  
LaCHIP Affordable Plan Benefits Administration  
(LAC 50:III.Chapter 205)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.20501 and §§20505-20507 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted

provisions to implement phase five of the Louisiana Children's Health Insurance Program (LaCHIP) as a stand-alone program under Title XXI provisions to provide coverage to uninsured children whose family income is from 200 percent up to 250 percent of the Federal Poverty Level (*Louisiana Register*, Volume 34, Number 4).

The department promulgated an Emergency Rule which amended the April 2008 Rule in order to transfer the administration of health care services covered under the LaCHIP Affordable Plan (Phase 5) to the health plans participating in the BAYOU HEALTH Program, and the administration of behavioral health services to the Statewide Management Organization in the Louisiana Behavioral Health Partnership (*Louisiana Register*, Volume 38, Number 12).

This Emergency Rule also revised the cost sharing provisions in order to remove the co-payment, co-insurance, and deductible requirements since they will no longer be attributable to the LaCHIP Affordable Plan Program. Only the monthly premium per household shall apply. This Emergency Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs, and to promote the health and welfare of LaCHIP Affordable Plan recipients.

Effective April 28, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the LaCHIP Affordable Plan in order to transfer the administration of these services to the BAYOU HEALTH Program and the Louisiana Behavioral Health Partnership.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part III. Eligibility**

#### **Subpart 11. State Children's Health Insurance Program**

#### **Chapter 205. Louisiana Children's Health Insurance**

#### **Program (LaCHIP)—Phase V**

#### **§20501. General Provisions**

A. ...

B. The Department retains the oversight and management of this LaCHIP expansion with health care benefits provided through the BAYOU HEALTH Program and behavioral health services provided through the Louisiana Behavioral Health Partnership (LBHP).

C. Phase five is a cost-sharing program. Families who are enrolled in phase five of LaCHIP will be responsible for paying premiums.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

#### **§20505. Covered Services**

A. Children covered in phase five of the LaCHIP expansion shall receive health care benefits through an array of covered services offered by health plans participating in the BAYOU HEALTH Program, and behavioral health services administered by the Statewide Management Organization under the LBHP. The following services shall be included:

1. - 8. ...

9. inpatient and outpatient behavioral health services other than those listed in any other provisions of §20503:

9.a. - 10. ...

11. nursing care services;

a. Repealed.

12. ...

13. inpatient substance abuse treatment services, including residential substance abuse treatment services:

a. inpatient admissions must be pre-certified. Emergency services are covered if, upon review, presentation is determined to be life-threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;

b. ...

14. outpatient substance abuse treatment services:

a. All services must be pre-certified;

b. ...

15. case management services;

a. Repealed.

16. - 16.a. ...

17. hospice care;

a. Repealed.

18. medical transportation; and

a. Repealed.

19. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

#### **§20507. Cost Sharing**

A. Phase five of LaCHIP is a cost-sharing program with premiums limited to no more than 5 percent of the family's annual income.

B. The following cost-sharing criteria shall apply.

1. - 1.a. ...

2. - 3.e. Repealed.

C. Non-payment of premiums may result in disenrollment from LaCHIP. Recipients shall be allowed a 60-day grace period prior to disenrollment for non-payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:661 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Secretary

1504#054



## DECLARATION OF EMERGENCY

### Department of Public Safety and Corrections Corrections Services

#### Offender Incentive Pay and Other Wage Compensation (LAC 22:I.331)

In accordance with the provisions of R.S. 49:953, the Department of Public Safety and Corrections, Corrections Services, hereby determines that adoption of an emergency rule for implementation of the amendment of an existing Department Regulation No. B-09-001 "Offender Incentive Pay and Other Wage Compensation", is necessary. A change in the incentive pay grades for the offender job classifications which are professional level jobs has been undertaken. Incentive pay was increased for educational tutors, ministers and sign language interpreters. A pay increase for the inmate counsel substitutes was delayed due to the size of the affected class of offenders and budget cuts. This delay has negatively impacted recruitment and retention of offenders as inmate counsel substitutes as they often qualify for the other professional level jobs where they can earn a higher rate of pay. The amendment of Department Regulation No. B-09-001 will balance the inequities in the pay scales and allow for the continuation of the nationally acclaimed Inmate Counsel Substitute Program.

For the foregoing reasons, the Department of Public Safety and Corrections, Corrections Services, has determined that the adoption of an emergency rule for implementation of Department Regulation No. B-09-001 "Offender Incentive Pay and Other Wage Compensation", is necessary and hereby provides notice of its declaration of emergency effective April 13, 2015, in accordance with R.S. 49:953. This Emergency Rule shall be in effect for 120 days or until adoption of the final rule, whichever occurs first.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

#### Chapter 3. Adult Services

#### §331. Offender Incentive Pay and Other Wage Compensation

A. Purpose—to state the secretary's policy regarding payment of incentive wages and other wage compensations to offenders.

B. Applicability—deputy secretary, undersecretary, chief of operations, director of prison enterprises, regional wardens and wardens. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy that compensation shall be paid, in accordance with the provisions of this regulation, to all offenders who have served at least three years of their sentence in the physical custody of the department and who have performed satisfactory work in the job assignment in which they have been classified (except those offenders who opt to receive good time in lieu of incentive wages in accordance with R.S. 15:571.3).

#### D. Procedures

1. An offender sentenced or resentenced or who is returning to the physical custody of the department on or

after September 20, 2008, who is not eligible to earn good time at any rate shall serve three years from the date of reception before becoming eligible to earn incentive pay.

a. Grandfather Clause. The provisions of this section are applicable to offenders received at the reception and diagnostic centers on or after September 20, 2008. Offenders received at a reception and diagnostic center prior to this date shall be subject to the waiting period previously in effect for this regulation. Offenders who are currently receiving incentive pay will not be affected and will continue to be eligible to receive incentive pay as they did on the effective date of this regulation but shall be subject to the provisions of Paragraph D.3 as it applies to job changes.

2. An offender sentenced or re-sentenced or who is returning to the physical custody of the department on or after September 20, 2008, who is eligible to earn good time at any rate shall not be eligible to earn incentive wages.

a. Grandfather Clause. Offenders currently earning good time at a rate of three days for every 17 days served in accordance with Act 1099 of the 1995 regular session who are also earning incentive pay shall be allowed to continue to earn incentive pay at authorized rates.

3. Once eligible to earn incentive pay, each offender shall initially be paid an "introductory pay level" of two cents per hour for a period of six months. After six months, the offender shall be paid at the lowest pay rate that is commensurate with the job assignment he is placed in by the institution. In the event of a change in an offender's job assignment or custody status, the offender's rate of compensation shall automatically be adjusted to the lowest pay rate of the assigned job. If a change in job assignment is not for disciplinary reasons, the Warden may approve the offender to be paid at the same rate as the previous job assignment and the rate of compensation shall not be automatically adjusted to the lowest pay rate of the new job assignment.

a. Grandfather Clause. Offenders earning incentive pay at any rate, prior to the effective date of this regulation, shall continue to earn at these rates. If the offender is reassigned to a new job or vacates the job for any reason and it has been determined the rate of pay for the job that he is leaving should be lower, the next offender to fill that position will receive the adjusted lower rate.

4. An offender may receive a raise in his hourly pay rate of no greater than \$0.04 per hour on an annual basis unless specifically authorized by mutual agreement of the director of prison enterprises and the warden of the respective institution, except as provided in Paragraphs D.12, 13, 14, 15 and 16 below.

5. No offender shall earn more than 80 hours in a two-week period unless specifically authorized by mutual agreement of the director of prison enterprises and the warden of the respective institution.

a. Exception. Offenders assigned to job duties at the governor's mansion will not be limited to 80 hours bi-weekly.

6. Any offender who has his incentive pay forfeited as a disciplinary sanction shall return to the "introductory pay level" of two cents per hour for a six month period upon reinstatement of his right to earn incentive pay. At the end of the six month period, the offender's pay will be

automatically adjusted to the lowest pay rate for the assigned job.

7. A series of pay ranges and a standardized list of job titles shall be established by the director of prison enterprises and approved by the secretary or designee. The institutions shall be assigned limits on the total amount of incentive wages paid in certain pay ranges. These limits shall be derived on a percentage basis determined by the total hours worked by offenders who are eligible to earn incentive pay at each institution and shall be approved by the director of prison enterprises and the secretary or designee. Prison enterprises shall issue reports detailing each institution's status with regard to their limits on a quarterly basis. Offender banking shall monitor the assigned limits to ensure that the institutions remain within their limits and report discrepancies to the chief of operations, the appropriate regional warden, the director of prison enterprises and the warden of the institution.

a. The regional wardens shall work closely with the director of prison enterprises to ensure that any institution that exceeds the established limits is brought back into compliance in an expeditious manner.

b. Exception. Offenders who work in prison enterprises job titles will not affect an institution's pay range percentage limits.

8. Incentive wages shall not be paid for extra duty assignments that are imposed as sanctions through the offender disciplinary process.

9. All offenders classified in limited duty status and who are eligible to earn incentive wages shall earn at a rate of no more than \$0.04 per hour. This excludes offenders classified as regular duty with restrictions or those with a temporary limited duty status.

10. All offenders classified in working cellblocks and maximum custody field lines who are eligible to earn incentive wages shall earn at the rate of \$0.02 per hour.

11. All offenders assigned to educational or vocational programs who are eligible to earn incentive wages shall be paid at the rate of \$0.04 per hour.

a. Exception. Due to the importance of the New Orleans Baptist Theological Seminary program and its positive impact on the department, offenders enrolled in this program shall earn incentive wages at the following rates.

- i. Freshmen: \$0.14 per hour.
- ii. Sophomores: \$0.16 per hour.
- iii. Juniors: \$0.18 per hour.
- iv. Seniors: \$0.20 per hour.

b. Upon completion of any educational or vocational program, the offender may, upon request and at the discretion of the warden and based upon availability, return to the same job at the same rate of pay he held prior to enrollment in the program.

12. Offenders assigned to prison enterprises industrial, agricultural, service or other prison enterprises jobs may be compensated at a rate up to \$0.40 per hour. The pay range for these jobs shall be established by the director of prison enterprises and approved by the secretary or designee.

13. Offender tutors who achieve certification from the Corrections Education Association (CEA) or an NCCER or other industry based certification may be paid, on a graduating scale, up to \$1 per hour while working as a tutor in the area of certification. Certified tutors may earn \$0.75

per hour during the first 12 months after certification and may receive an annual raise of \$0.10 per hour, up to a maximum of \$1 per hour.

14. In accordance with established procedures, Paragraph D.4, offenders who are participating in the American Sign Language Interpreting Program shall earn incentive wages at the following rates.

a. Sign Language Student I: \$0.20 per hour.

b. Sign Language Interpreter Student/Tutor: \$0.50 per hour.

c. Sign Language Interpreter/Certified Tutor: \$0.75 per hour-may be increased to a maximum of \$1.00 per hour.

15. In accordance with established procedures, offenders working as a mentor/tutor or minister/tutor shall earn incentive wages at the following rates.

a. Lead Certified Mentor/Tutor: \$0.75 per hour.

b. Certified Mentor/Tutor: \$0.65 per hour.

c. Peer Minister/Tutor: \$0.50 per hour.

d. Mentor/Tutor: \$0.50 per hour.

16. Offenders who are assigned to work as counsel substitutes shall be paid in accordance with their education and years of legal experience. Incentive wages shall be earned at the following rates.

a. Legal Worker 1: \$0.25 per hour.

i. Must be enrolled in paralegal classes or have less than five years legal work experience.

b. Legal Worker 2: \$0.50 per hour.

i. Must have attained paralegal certificate or degree and have less than three years legal work experience or have five years legal work experience and no paralegal certificate or degree.

c. Legal Worker 3: \$0.80 per hour.

i. Must have attained paralegal certificate or degree and have a minimum of three years legal work experience or have 10 years legal work experience and no paralegal certificate or degree.

d. Counsel substitutes may receive an annual raise of five cents per hour, up to a maximum of \$1 per hour.

17. Offenders who are eligible to earn incentive wages shall be paid only for actual hours worked in their job assignment. Offenders shall not be paid for time spent away from their job assignment due to circumstances such as holidays, callouts, duty status, weather, illness, etc.

18. For the purpose of this regulation, income earned from a Private Sector/Prison Industry Enhancement (PS/PIE) program or a work release program is not "incentive pay." Therefore, offenders employed in any of these programs may receive good time in accordance with the law. The director of prison enterprises shall establish record-keeping procedures relating to wages earned by offenders employed in a PS/PIE program that include all mandatory deductions from offender wages, other deductions such as child support or garnishment and the distribution of net offender wages to offender banking.

#### E. Sources of Funding

1. The division of prison enterprises shall pay all incentive wages.

2. Offenders who are employed in a certified PS/PIE program shall be paid by the private business that employs them or by prison enterprises depending upon the type of PS/PIE program that is in operation, in accordance with the terms stated in the employment agreement.

3. Offenders who are participating in a transitional work program shall be paid by the private business that employs them, in accordance with the terms outlined in the employment agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1927 (September 2008), amended LR 36:531 (March 2010), LR 38:1253 (May 2012), LR 40:2600 (December 2014), LR 41:

James M. LeBlanc  
Secretary

1504#086

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Louisiana Fisheries Forward Program for the  
Commercial Crab Industry (LAC 76:VII.347)

The Wildlife and Fisheries Commission hereby adopts LAC 76:VII.347 establishing the Louisiana Fisheries Forward Program to increase and elevate professionalism in the commercial crab industry as authorized by R.S. 56:305.6 and Act 540 of the 2014 Regular Legislative Session. Act 540 of the 2014 Regular Legislative Session limits entry into the commercial crab fishery and mandates that the Wildlife and Fisheries Commission establish a program to increase and elevate professionalism in the commercial crab industry no later than November 15, 2014. The Wildlife and Fisheries Commission finds that an imminent peril to the public welfare requires adoption of a Rule upon shorter notice than that provided in R.S. 49:953(A), since failure to establish the program timely would prevent potential entrants into the fishery from obtaining a commercial crab trap license and inhibit their ability to earn a living. It is necessary to adopt these emergency rules to have this program in place until the corresponding permanent rules can be adopted.

This Rule establishes the requirements needed to complete the program, including education in the proper fishing techniques necessary for the health and sustainability of the species; proper techniques for the best capture and presentation of the crabs for marketability; proper instructions regarding the placement, tending, and maintenance of crab traps to reduce potential conflicts with other user groups; and authorizes the program to include a mandatory apprenticeship program. This Emergency Rule is promulgated in accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be effective beginning March 9, 2015 and shall remain in effect for the maximum period allowed under the Act (120 days) or until adoption of the final Rule, whichever occurs first.

## Title 76

## WILDLIFE AND FISHERIES

### Part VII. Fish and Other Aquatic Life

#### Chapter 3. Saltwater Sport and Commercial Fishery §347. Louisiana Fisheries Forward Program

A. The following defines the requirements necessary to complete the program to increase and elevate professionalism in the commercial crab industry pursuant to

R.S. 56:305.6. This program shall hereafter be referred to as the Louisiana Fisheries Forward Program.

B. For the purposes of this section, the following will be defined as:

*applicant*—licensed commercial fishermen attempting to obtain a commercial crab trap gear license through the program;

*mentor*—a fisherman holding a valid commercial crab trap gear license who mentors an apprentice in completing the apprenticeship path;

*sponsor*—a fisherman or wholesale/retail seafood dealer holding a valid commercial crab trap gear license who sponsors an apprentice in completing sponsorship path.

#### C. Policy

1. Applicants that do not qualify for a commercial crab trap gear license under provisions defined in R.S. 56:305.6 shall fulfill all the basic requirements and complete one of two field-training paths; the apprenticeship path, or the sponsorship path, to complete the program, and receive a crab trap gear license.

2. Before beginning a training path, an applicant must possess a valid Louisiana commercial fisherman's license. This license number will be used to track participation in the program.

3. The basic requirements and chosen training path shall be completed within one consecutive 12-month period.

4. Applicants who wish to change their mentor or sponsor during the process shall submit a new application containing the new mentor's or sponsor's information along with a written explanation for the change. Applicants shall not lose credit for hours or trips logged under the previous mentor or sponsor provided they are verified pursuant to Paragraphs F.3 and G.3 of this Section.

5. In the event an applicant completes the field training path prior to the availability (release) of the required training videos, the applicant shall be issued a conditional commercial crab trap license. The applicant shall be notified via certified mail when the required training videos are available. The applicant shall complete the required video training within 30 days of the date of this notice. Failure to complete the required training within 30 days shall result in the suspension of the applicants commercial crab trap gear license.

#### D. Eligibility

1. Any person who has been convicted of a class 3 or greater fisheries violation in the last five years shall not be eligible to participate as an applicant, mentor, or sponsor.

2. Any person choosing to participate as a mentor shall possess a valid commercial crab trap gear license and have documented a minimum of six trip tickets showing crab landings in any two of the previous four years.

3. Any person choosing to participate as a sponsor shall possess a valid commercial crab trap gear license and have documented a minimum of six trip tickets showing crab landings as a commercial fisherman or wholesale/retail dealer in any two of the previous four years.

#### E. Basic Requirements

1. Each applicant must successfully complete an NASBLA-approved boating safety class as required by R.S. 34:851.36.

2. Each applicant must successfully complete and receive a certificate in the following Louisiana Fisheries

Forward online courses. The applicant will be required to view 100 percent of the content and score a minimum of 80 percent in order to receive a certificate.

a. Course providing a detailed overview of state and federal statutes governing legal harvest of major seafood commodities, including but not limited to, licensing and permitting, harvest regulations, reporting requirements, and responsible and safe fishing.

b. Course covering the legalities and best management practices of crab fishing, including but not limited to, licensing and permitting requirements, crab harvest regulations, reporting requirements, best handling practices, responsible fishing, and vessel operation.

c. Course covering fundamental financial concepts targeted to Louisiana's commercial fishing industry, including but not limited to, budgeting, cash flow, taxes, insurance, loans, grants, and business plans.

d. Course covering the fundamental concepts for producing high quality seafood, including but not limited to, quality loss, temperature control, icing, chilling, freezing, and proper handling and storage.

#### F. Apprenticeship Path

1. To initiate the apprenticeship training path the applicant and applicant's mentor must complete and submit an application to the department. The application shall state the intent to participate in apprenticeship training and include the social security numbers, names, addresses, commercial fishing license numbers, and photocopies of the state issued photo identification of both the applicant and the applicant's mentor. Additionally, the mentor's valid commercial crab trap gear license number must be provided.

2. The applicant shall complete a minimum of 200 hours of apprenticeship training related to crab fishing under supervision of the applicant's designated mentor. Training hours shall be recorded daily on training log forms provided by the department. Copies of the training logs shall be submitted to the department on a quarterly basis. A minimum of 100 hours of training shall be performed and logged on days when the applicant's mentor has harvested and reported trip ticket sales of crabs. Any previous work or training experience in the crab fishery conducted prior to the date the apprenticeship is initiated shall not count toward the applicant's total required hours.

3. Upon completion, the applicant and mentor must complete and submit a notarized affidavit signed by both the applicant and the mentor and include the original signed training log forms. The affidavit shall be provided by the department and indicate the completion of the apprenticeship, affirm the accuracy of the associated log forms, and include the name, address, and commercial fishing license numbers of both the applicant and the mentor.

#### G. Sponsorship Path

1. To initiate the sponsorship training path the applicant and applicant's sponsor must complete and submit an application to the department. The application shall state the intent to participate in sponsorship training and include the social security numbers, names, addresses, commercial fishing license numbers, and photocopies of state issued

photo identification of both the applicant and the applicant's sponsor. Additionally, the sponsor's valid commercial crab trap gear license number must be provided.

2. The department shall issue a special crab trap permit allowing the applicant to actively fish crabs under the sponsor's crab trap gear license and report trip ticket sales of crabs using the applicant's name and commercial fisherman's license number. This permit shall only be issued once and shall only be valid for the duration of the sponsorship. The applicant must complete a minimum of 20 crab fishing trips evidenced by trip tickets. Any trips or landings conducted prior to the date the sponsorship is initiated shall not count toward the applicant's total required crab fishing trips.

3. Upon completion, the applicant and sponsor must complete and submit a notarized affidavit signed by both the applicant and the sponsor and include copies of the trip tickets used to evidence the required crab fishing trips. The affidavit shall be provided by the department and indicate the completion of the sponsorship, affirm the accuracy of the associated trip tickets, and include the name, address, and commercial fishing license numbers of both the applicant and the sponsor.

#### H. Optional Training

1. Applicants may substitute attendance at the following department-approved meetings or educational events for required apprenticeship hours and sponsorship trips: Louisiana crab task force meetings, crab dock days, and annual Louisiana fisheries summits. The department may identify additional meetings and events eligible for substitution.

a. Each hour of meeting attendance shall substitute for one hour of the apprenticeship requirement. Every 10 hours of meeting attendance shall substitute for one fishing trip of the sponsorship requirement.

b. A maximum 50 hours of meeting attendance or five fishing trips may be substituted for the sponsorship requirements.

2. Attendance at meetings or educational events shall be documented by a designated department employee or agent. The applicant shall sign-in upon arrival, present valid photo identification and provide their commercial license number. Upon departure, the applicant shall sign-out.

a. Applicants who sign in prior to the start of an event and sign out after the conclusion of an event shall receive substitution credit hours equal only to the length of the event. Applicants shall not receive extra credit hours for arriving early or staying late at an event.

b. Applicants who fail to sign-in or sign-out shall not receive credit hours for attending an event.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:305.6.

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41:

Edwin "Pat" Manuel  
Chairman

1504#003

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Season Opening of the Public Oyster Seed Grounds  
East of the Mississippi River and North of the  
Mississippi River Gulf Outlet (MRGO)

In accordance with the emergency provisions of *Louisiana Revised Statutes* (R.S.) 49:953, under the authority of R.S. 56:433, R.S. 56:435.1 and R.S. 56:435.1.1(D), notice is hereby given that the Louisiana Wildlife and Fisheries Commission and the secretary of Wildlife and Fisheries declares that the 2014/2015 oyster season in that portion of the public oyster seed grounds east of the Mississippi River and north of the Mississippi River Gulf Outlet shall open at one-half hour before sunrise on Monday, March 16, 2015 and shall close at one-half hour after sunset on Tuesday, March 31, 2015. During this opening in this area, no sack limit and no sacking-only area shall be in effect.

The following cultch plants, located within this area, shall remain closed.

#### 3-Mile Pass (2013)—St. Bernard Parish:

- A. 30 degrees 03 minutes 56.09 seconds N;  
89 degrees 22 minutes 32.52 seconds W;
- B. 30 degrees 03 minutes 56.70 seconds N;  
89 degrees 22 minutes 15.40 seconds W;
- C. 30 degrees 03 minutes 18.00 seconds N;  
89 degrees 22 minutes 06.30 seconds W;
- D. 30 degrees 03 minutes 30.49 seconds N;  
89 degrees 22 minutes 38.17 seconds W;

#### Drum Bay (2013)—St. Bernard Parish:

- A. 29 degrees 53 minutes 13.00 seconds N;  
89 degrees 17 minutes 40.21 seconds W;
- B. 29 degrees 53 minutes 16.51 seconds N;  
89 degrees 16 minutes 51.12 seconds W;
- C. 29 degrees 52 minutes 56.17 seconds N;  
89 degrees 16 minutes 49.80 seconds W;
- D. 29 degrees 52 minutes 53.99 seconds N;  
89 degrees 17 minutes 40.43 seconds W.

The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered. The secretary shall notify the chairman of the Wildlife and Fisheries Commission of his intention to close an area.

The secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource has ended, or may open areas if substantial oyster resources are located.

Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana

Department of Health and Hospitals for public health concerns.

Edwin "Pat" Manuel  
Chairman

1504#004

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Public Oyster Season Closure

In accordance with the emergency provisions of Louisiana Revised Statutes (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on March 5, 2015 which authorized the Secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being adversely impacted, notice is hereby given that the Secretary of Wildlife and Fisheries hereby declares that the 2014/2015 oyster season in that portion of the public oyster seed grounds east of the Mississippi River and north of the Mississippi River Gulf Outlet (MRGO) shall close at one-half hour after sunset on Friday, March 20, 2015.

Harvest pressure during the season has significantly reduced oyster stocks and continued commercial harvest may threaten the long-term sustainability of remaining oyster resources in these areas. Protection of these remaining oyster reef resources from injury is in the best interest of the public oyster seed grounds.

Notice of any opening, delaying, or closing of a season will be provided by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Robert J. Barham  
Secretary

1504#013

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Red Snapper Recreational Harvest Season

The established season for the recreational harvest of red snapper in Louisiana state waters as outlined in LAC 76:VII.335 is from the Saturday preceding Palm Sunday (March 28, 2015), open on weekends only, where Friday, Saturday, Sunday, and the Monday of Memorial Day and the Monday of Labor Day are defined as weekend days, through September 30 of each year. The bag and possession limit, as established in LAC 76:VII.335 is 2 red snapper per person per day. The recreational season for the harvest of red snapper in Louisiana state waters is hereby modified effective from March 20, 2015 until further notice to be open during every day of the week.

In accordance with the emergency provisions of R.S. 49:953, the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department by the Commission in LAC 76.VII.335.G.5 to modify the recreational red snapper seasons and possession limits in Louisiana state waters when he deems necessary, the secretary hereby declares:

The recreational fishery for red snapper in Louisiana state waters will open at 12:01a.m on March 20, 2015 and be open during every day of the week and shall remain open until further notice. The recreational bag and possession limit and minimum size limit for red snapper shall remain as established in LAC 76.VII.335.

Robert Barham  
Secretary

1504#015

# Rules

## RULE

### Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.613)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*: §613, Calculating a Graduation Index. The revisions update and clarify policy related to the graduation index.

## Title 28

## EDUCATION

### Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

#### Chapter 6. Graduation Cohort, Index, and Rate

#### §613. Calculating a Graduation Index

A. For 2014-15 only (2013-14 graduates), points shall be assigned for each member of a cohort according to the following table.

Student Result	Points
HS Diploma plus (a) AP score of 3 or higher, IB Score of 4 or higher, or CLEP score of 50 or higher OR (b) Advanced statewide Jump Start credential *Students achieving both (a) and (b) will generate 160 points.	150
HS Diploma plus (a) At least one passing course grade of the following type: AP**, college credit, dual enrollment, or IB** OR (b) Basic statewide Jump Start credential *Students achieving both (a) and (b) will generate 115 points, if the passing course grade for (a) is earned in a TOPS core curriculum course. **Students must take the AP/IB exam and pass the course to earn 110 points.	110
Four-year graduate (includes Career Diploma student with a regional Jump Start credential)	100
Five-year graduate with any diploma *Five-year graduates who earn an AP score of 3 or higher, an IB score of 4 or higher, or a CLEP score of 50 or higher will generate 140 points.	75
Six-year graduate with any diploma	50
HiSET	25
Non-graduate without HiSET	0

B. Beginning in 2015-16 (2014-15 graduates), points shall be assigned for each member of a cohort according to the following table.

Student Result	Points
HS Diploma plus (a) AP score of 3 or higher, IB Score of 4 or higher, or CLEP score of 50 or higher OR (b) Advanced statewide Jump Start credential *Students achieving both (a) and (b) will generate 160 points.	150

Student Result	Points
HS Diploma plus (a) At least one passing course grade for TOPS core curriculum credit of the following type: AP**, college credit, dual enrollment, or IB** OR (b) Basic statewide Jump Start credential *Students achieving both (a) and (b) will generate 115 points. **Students must take the AP/IB exam and pass the course to earn 110 points.	110
Four-year graduate (includes Career Diploma student with a regional Jump Start credential)	100
Five-year graduate with any diploma *Five-year graduates who earn an AP score of 3 or higher, an IB score of 4 or higher, or a CLEP score of 50 or higher will generate 140 points.	75
Six-year graduate with any diploma	50
HiSET	25
Non-graduate without HiSET	0

C. The graduation index of a school shall be the average number of points earned by cohort members.

1. Starting with the graduating class of 2017-2018 (2019 SPS), only WIC-approved industry based certifications (IBCs) will be included as basic statewide credentials.

D.1. The diploma must be earned no later than the third administration of the summer retest following the fourth year of high school of the students' cohort.

a. For example, a student who finishes the fourth year of high school in 2012 must complete the assessment requirements before or during the 2014 summer test administration.

2. When related to awarding fifth year graduate points, the enrollment must be continuous and consist of at least 45 calendar days.

E. To ensure the accuracy of data used to calculate the graduation index, the calculation shall lag one year behind the collection of the data. (The index earned by the graduating class of 2012 will be used for 2013 accountability calculations.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006), amended LR 33:2031 (October 2007), LR 33:2594 (December 2007), LR 35:1472 (August 2009), LR 36:1769 (August 2010), repromulgated LR 36:1994 (September 2010), LR 36:2243 (October 2010), LR 37:3201 (November 2011), LR 38:1391 (June 2012), LR 38:3109 (December 2012), LR 39:306 (February 2013), LR 39:2444 (September 2013), LR 40:1317 (July 2014), LR 41:615 (April 2015).

Shan N. Davis  
Executive Director

1504#010

## RULE

### Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:CXI.3307)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practices*: §3307, Limited English Proficient Students. The revisions align policy with assessment accommodations for limited English proficient students in grades 3-8 who speak Spanish.

## Title 28 EDUCATION

### Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

#### Chapter 33. Assessment of Special Populations

##### §3307. Limited English Proficient Students

A. - C.1.e. ...

D. Spanish language versions of math state assessments are provided for limited English proficient (LEP) students in grades 3 through 8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq., and R.S. 17:24.4 (F)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1562 (July 2005), amended by the Board of Elementary and Secondary Education, LR 32:240 (February 2006), LR 33:264 (February 2007), LR 33:1010 (June 2007), LR 36:983 (May 2010), LR 37:821 (March 2011), LR 41:616 (April 2015).

Shan N. Davis  
Executive Director

1504#009

## RULE

### Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center Licensing Regulations (LAC 28:CLXI.Chapters 1-21)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*. Act 868 (Early Learning Center Act) of the 2014 Regular Legislative Session transfers licensing authority from the Department of Children and Family Services (DCFS) to the Louisiana Department of Education (LDE), effective October 1, 2014. The law requires BESE to establish statewide minimum standards for the health, safety and well-being of children in early learning centers, ensure maintenance of these standards, and regulate conditions in early learning centers through a program of licensing administered by the LDE. As required by law, the LDE has worked with various stakeholders including early learning center providers (child care, head start/early head start, nonpublic), the state sanitarian, the fire marshal, the Department of Health and Hospitals, and the Department of Children and Family Services since August of 2013 to develop the proposed regulations. This Rule takes effect July 1, 2015.

## Title 28

## EDUCATION

### Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations

#### Chapter 1. General Provisions

##### §101. Purpose and Authorization

A. The purpose of this bulletin is to set forth the rules and regulations necessary to implement the provisions of R.S. 17:407.31 et seq., that require the state Board of Elementary and Secondary Education (BESE) to establish statewide minimum standards for the health, safety and well-being of children in early learning centers, ensure maintenance of these standards, and regulate conditions in early learning centers through a program of licensing administered by the Department of Education, Licensing Division (Licensing Division).

B. The state superintendent of education (state superintendent), in order to carry out functions otherwise vested in the state superintendent by law, or by delegation of authority pursuant to law, is authorized to make, issue, rescind, and amend Licensing Division guidelines, interpretive guidance and procedures governing the early childhood licensing program administered by the Licensing Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.32.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:616 (April 2015), effective July 1, 2015.

##### §103. Definitions

*Anniversary Date*—the last day of the month in which the center's original license was issued and the date by which the license must be renewed each year.

*APA*—Louisiana Administrative Procedure Act found at R.S. 49:950 et seq.

*Behavior Management*—the ongoing positive process of helping children develop inner control so that they can manage their own behavior in an appropriate and acceptable manner by using corrective action to change the inappropriate behavior.

*BESE*—Louisiana state Board of Elementary and Secondary Education.

*Bureau*—Louisiana Bureau of Criminal Identification and Information, part of the Office of State Police within the Department of Public Safety and Corrections.

*Camp*—any place or center operated by any institution, society, agency, corporation, person or persons, or any other group that serves only children ages five and older and operates only when schools are not in session for the summer months or school holidays.

*Capacity*—the number of children the provider is licensed to care for at any given time as determined by the Licensing Division.

*CBC*—criminal background check.

*Center*—see *early learning center*.

*Center Staff*—see *staff*.

*Change of Location*—change in physical address/location of the center.

*Change of Ownership*—a transfer of ownership of a currently licensed center that is in operation and caring for children, to another entity without a break in service to the children currently enrolled.



*Child*—person who has not reached age 18 or otherwise been legally emancipated.

*Child Care Health Consultant*—qualified health and safety professional approved by DHH to provide training, consultation, and technical assistance to out of home child care facilities and early childhood education staff (and parents) on health and safety topics.

*Child Care Market Rate Survey*—a survey that measures the prices charged by child care providers and paid by parents in a given child care market. The Child Care and Development Fund Programs require states to *conduct child care market rate surveys*.

*Child Day Care Center*—any place or center operated by any institution, political subdivision, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or legal custodian, on a regular basis for at least 12 1/2 hours in a continuous 7-day week.

1. If a *child day care center* provides transportation or arranges for transportation to and from the center, either directly or by contract with third parties, all hours that a child is being transported shall be included in the calculation of the hours of operation.

2. A *child day care center* that remains open for more than 12 1/2 hours in a continuous 7-day week, and in which no individual child remains for more than 24 hours in one continuous stay shall be known as a full-time *child day care center*.

3. A *child day care center* that remains open after 9 p.m. shall meet the appropriate regulations established for nighttime care.

*Child Safety Alarm*—an ignition-based alarm system that voice prompts the driver to inspect the vehicle for children before exiting the vehicle.

*Clock Hour*—60 minutes.

*Complaint*—an allegation that an owner, provider, or staff person is violating any provision of these standards or laws, or engaging in conduct, either by omission or commission, that negatively affects the health, safety, or well-being of any child for which the provider has responsibility.

*DAL*—Division of Administrative Law.

*Day Care Center*—see *child day care center*.

*DCFS*—Department of Children and Family Services.

*Department*—Department of Education.

*DHH*—Department of Health and Hospitals.

*Director*—the staff who is responsible for the day-to-day operation, management, and administration of the center. For the purpose of these regulations, the term “director” means *director* or *director designee*, if applicable.

*Director Designee*—the individual appointed by the director to act in lieu of the director when the director is not an on-site staff person at the licensed location. This individual shall meet director qualifications.

*Direct Supervision*—physically present with visual contact at all times and available to respond immediately to the emergency needs of children.

*Discipline*—see *behavior management*.

*Disqualification Period*—the prescriptive period during which a center shall not be qualified to submit an application for licensure after its license has been revoked, renewal has

been refused or its license has been surrendered to avoid adverse action due to failure to comply with licensing laws, regulations or minimum standards.

*Early Learning Center*—any child day care center, early head start center, head start center, or stand-alone prekindergarten program that is not attached to a school.

*Early Learning Staff*—see *staff*.

*Employee*—all full or part time paid staff who perform services for the center and have direct or indirect contact with children at the center.

*Extra-Curricular Personnel*—see *independent contractors*.

*Federal Food and Nutrition Programs*—federal nutrition reimbursement programs funded by the U.S. Department of Agriculture through the Louisiana Department of Education, Division of Nutrition Support.

*Foster Grandparents*—a program organized by an agency that recruits and trains seniors to provide one-on-one attention to a child or to assist a group of children.

*Full-Time*—physical presence at the center Monday through Friday for at least 32 hours.

*Head Start and Early Head Start Programs*—federally-funded early childhood care and education programs that promote and teach school readiness to children ages birth to five from low-income families and provide services in the areas of education, social services for families, nutrition, family engagement, health and mental health, as well as providing the physical plant and instructional staff members for such purposes.

*Independent Contractors*—individuals who are not employees of the center, but who render professional, therapeutic, or enrichment services within an early learning center and who are not required to be under the supervision of center staff. *Independent contractors* include, but are not limited to, extra-curricular personnel (dance instructors, gymnastic or sports instructors, computer instructors, etc.), therapeutic professionals (speech therapists, nutritionists, early interventionists, nurses and other licensed health care professionals), local school district staff, Department of Education, Office of Early Childhood staff, contracted bus drivers, electricians and maintenance personnel, and other outside contractors.

*Infant*—a child who has not yet reached his/her first birthday.

*License*—any *license* issued by the Louisiana Department of Education, Licensing Division to operate an early learning center.

*License Type*—the type of license applied for or held by an early learning center, which include type I, type II, and type III licenses.

*Licensing Division*—Louisiana Department of Education, *Licensing Division*.

*Mandated Reporter*—professionals who may work with children in the course of their professional duties and who consequently are required to report all suspected cases of child abuse and neglect. This includes any person who provides training or supervision of a child, such as a public or private school teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, any other child care institution staff member, licensed or unlicensed day care provider, any individual who provides such services to a child, or any

other person made a mandatory reporter under *Children's Code* article 603 or other applicable law.

*Medication*—all internally and externally administered drugs, whether over-the-counter or prescribed.

*Monitor*—staff with specific transportation-related responsibilities that include assisting the driver in ensuring the safety of children while they ride in, board, or exit a vehicle, and during transportation emergencies.

*Nighttime Care*—care provided after 9 p.m. and prior to 5 a.m. in which no individual child remains for more than 24 hours in one continuous stay.

*Non-Vehicular Excursion*—any activity that takes place outside of the licensed area (play yard and premises), that is within a safe, reasonable, walking distance, and that does not require transportation in a motor vehicle. This does not include walking with children to and from schools.

*Notice*—written notice to an early learning center is considered given:

1. when it is sent by email or fax to the email address or fax number furnished by the center on the center's current application for licensure or renewal;

2. when it is hand-delivered to a staff member at the center; or

3. on the fifth calendar day after it was mailed to the mailing address furnished by the center on the center's current application for licensure or renewal.

*Office of Early Childhood*—Louisiana Department of Education, *Office of Early Childhood*.

*Office of Public Health*—Louisiana Department of Health and Hospitals, *Office of Public Health*.

*Owner or Operator*—the individual who exercises ownership or control over an early learning center, whether such ownership or control is direct or indirect.

*Parent*—parent or custodian.

*Posted*—prominently displayed in a conspicuous location in an area accessible to and regularly used by parents.

*Prekindergarten Programs*—

1. per R.S. 17:24.8(A), the youngest age at which a child may enter prekindergarten at a local public school is four years on or before September 30 of the calendar year in which the school year begins;

2. per R.S. 17:24.8(B), the youngest age at which a child may enter prekindergarten at a BESE-approved nonpublic school is 3 years old by September 30 of the year in which the child enrolls in prekindergarten.

*Premises*—buildings and land upon which buildings sit, including but not limited to play yards and parking areas.

*Providers*—all owners, operators and directors of a center.

*Related or Relative*—natural or adopted child or grandchild of the caregiver or a child in legal custody of caregiver.

*Rest Time*—a daily period for children over age 12 months during which children are placed on mats or cots or in cribs as age appropriate.

*Staff*—all full-time or part-time, paid or non-paid individuals that perform services for the early learning center and have direct or indirect contact with children at the center. *Staff* includes the director, child care staff, and any other employees at the center such as the cook, housekeeper, driver, substitutes, secretary, bookkeeper, and foster

grandparents, but does not include extra-curricular personnel, therapeutic professionals and other independent contractors.

*Staff-in-Charge*—the on-site staff member appointed by the director as responsible for supervising the operation of the center during the temporary absence of the director or during nighttime hours.

*State Central Registry*—repository within the Louisiana Department of Children and Family Services (DCFS) that identifies any individual reported to have a justified (valid) finding of abuse or neglect of a child or children by DCFS.

*State Superintendent*—Louisiana state superintendent of education.

*Student Trainee*—a student who is at least age 16 and present in the center as an educational course requirement. A student trainee shall not be left alone with children and shall not counted in the child to staff ratio.

*Supervision*—the function of observing, overseeing, and guiding a child or group of children, that includes awareness of and responsibility for the ongoing activity of each child and being near enough to intervene if needed. *Supervision* requires physical presence, accountability for care of the children, knowledge of activity requirements, and knowledge of the abilities and needs of the children.

*Temporary Absence*—absence for running errands, attending conferences, etc.

*Therapeutic Professionals*—see independent contractors.

*Time-Out*—technique for temporarily separating a child when inappropriate behavior has occurred, and is intended to give a child time to calm down, thereby discouraging such behavior.

*Transportation*—the arranging or providing of transportation of children, whether center-provided, parent-provided, or contract-provided, for any reason, including daily transportation, transportation for field trips, or transportation for any other activity that takes place away from the licensed center.

*Unlicensed Operation*—the operation of any early learning center at any location, without a valid current license issued by the Louisiana Department of Education, Licensing Division.

*Visitor*—anyone who enters an early learning center other than the parent of an enrolled child, center staff, volunteers, extracurricular personnel, therapeutic professionals and other independent contractors, and in the case of a church or school, any other routine employees, including but not limited to a pastor, principal or teacher.

*Volunteer*—a full or part-time non-paid staff member.

*Water Activity*—a water-related activity in which children are in, on, near and accessible to, or immersed in, a body of water, including but not limited to a swimming pool, wading pool, water park, river, lake, or beach.

*Water Play Activity*—water-related activity in which there is no standing water, including but not limited to fountains, sprinklers, water slip-and-slides and water tables.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.31 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:616 (April 2015), effective July 1, 2015.

## **Chapter 3. Licensure**

### **§301. Requirement of Licensure**

A. All early learning centers shall be licensed prior to beginning operations in Louisiana.

B. A prekindergarten program operated by a public school serving children in grades kindergarten and above, and in which all children have not reached age 4 by September 30 of the current school year, shall be licensed.

C. A prekindergarten program operated by a private school serving children in grades kindergarten and above, and in which all children have not reached age 3 by September 30 of the current school year, shall be licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.34 and R.S. 17:407.24.8.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015.

### **§303. Exemptions from Licensure**

A. A public or non-public day school serving children in grades kindergarten and above, including any pre-kindergarten attached thereto, except as provided in §301.B and C, is exempt from the provisions of this bulletin.

B. Camps and all care given without charge are exempt from the provisions of this bulletin.

C. A center operated by a recognized religious organization that is qualified as a tax-exempt organization under §501(c) of the *Internal Revenue Code* and that does not operate more than 24 hours in a continuous 7-day week shall not be considered an early learning center for purposes of this bulletin.

D. Nothing in this bulletin shall apply to children in programs licensed or operated by the Department of Health and Hospitals (DHH) or the Department of Children and Family Services (DCFS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.35.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015.

### **§305. Operating Without a License; Penalties**

A. Whoever operates any early learning center without a valid license shall be fined by the Licensing Division not less than \$1,000 per day for each day of such offense.

B. If an early learning center is operating without a valid license, the Licensing Division shall file suit for injunctive relief in the district court in the parish in which the center is located to enjoin the owner or operator from continuing the violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.37.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015.

### **§307. Types of Licenses**

A. A “type I license” is the type of license issued to an early learning center that is owned or operated by a church or religious organization that is qualified as a tax exempt organization under §501(c) of the *Internal Revenue Code* and that receives no state or federal funds directly or indirectly from any source.

1. Grandfathering Clause. A “type I license” is also the type of license issued to any early learning center holding a “class B” license on October 1, 2014, provided the

center receives no state or federal funds directly or indirectly from any source. “Class B” licenses held by other than tax exempt church or religious organizations on October 1, 2014 shall be grandfathered in as type I centers for the life of the existing license. However, if a type I license held by other than a tax exempt church or religious organization expires, is revoked, or is terminated for any reason, or if a new license is required for any reason, including but not limited to a change in location or ownership, the center shall not be eligible for a new type I license and shall apply for either a type II or type III license.

2. No early learning center holding a type I license shall directly or indirectly receive any state or federal funds from any source.

3. If an early learning center holding a type I license directly or indirectly receives any state or federal funds, its license is immediately revoked.

B. A “type II license” is the type of license issued to an early learning center that either receives no state or federal funds directly or indirectly from any source or whose only source of state or federal funds is from U.S. Department of Agriculture’s food and nutrition programs, hereinafter referred to in this bulletin as “federal food and nutrition programs.”

1. No early learning center holding a type II license shall directly or indirectly receive any state or federal funds from any source, other than those funds received solely for federal food and nutrition programs.

2. If an early learning center holding a type II license directly or indirectly receives any state or federal funds from any source, other than those received solely for food and nutrition programs, its license is immediately revoked.

C. A “type III license” is the type of license issued to an early learning center that directly or indirectly receives state or federal funds from any source other than the federal food and nutrition programs.

1. Type III early learning centers shall meet the performance and academic standards of the Early Childhood Care and Education Network regarding kindergarten readiness as determined by BESE.

D. Nothing in this Section shall prevent an early learning center otherwise qualified for a type I license to voluntarily seek a type II or type III license, or an early learning center otherwise qualified for a type II license to voluntarily seek a type III license, provided that such early learning center meets the standards set forth for such license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015.

### **§309. Term of License**

A. The Licensing Division is authorized to determine the period for which a license shall be valid. A license is valid for the period for which it is issued unless it is revoked or suspended by the Licensing Division for non-compliance with the licensing laws, regulations or minimum standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015.

### §311. Posting of License

A. Each early learning center shall display its current license in a prominent place at the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:620 (April 2015), effective July 1, 2015.

### §313. Annual Licensure Fee

A. There shall be an annual licensure fee for each early learning center based on the licensed capacity of the center.

#### B. Annual Licensure Fees

Licensed Capacity	Annual License Fee
15 or fewer children	\$25
16-50 children	\$100
51-100 children	\$175
101 or more children	\$250

C. Pursuant to R.S. 17:407.39(G), annual licensure fees shall not apply to type I centers operated by churches or religious organizations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39(E).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:620 (April 2015), effective July 1, 2015.

### §315. Inspections

A. The Licensing Division, through its duly authorized agents, shall inspect at regular intervals not to exceed one year, and as deemed necessary by the Licensing Division and without previous notice, all early learning centers subject to the provisions of this bulletin.

B. Whenever the Licensing Division is advised or has reason to believe that any person, agency or organization is operating a non-exempt early learning center without a license, the Licensing Division shall initiate an investigation to ascertain the facts.

C. Whenever the Licensing Division is advised or has reason to believe that any person, agency or organization is operating in violation of licensing laws, regulations or minimum standards, the Licensing Division shall complete a complaint investigation. All reports of mistreatment of children coming to the attention of the Licensing Division shall be referred to the appropriate agencies, and law enforcement personnel if applicable.

D. The Licensing Division may apply for an administrative search warrant to obtain entry to an early learning center, if necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.43.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:620 (April 2015), effective July 1, 2015.

### §317. Transitional Provisions

A. Effective immediately, any early learning center possessing a class B license that receives no state or federal funds directly or indirectly from any source is deemed to be a type I center and its current license remains valid for the term stated on the face of the license. A new license shall be issued upon renewal of the existing license.

B. Effective immediately, any early learning center possessing a class A or class B license that either receives no

state or federal funds directly or indirectly from any source or whose only source of state or federal funds is from federal food and nutrition programs is deemed a type II center and its current license remains valid for the term stated on the face of the license. A new license shall be issued upon renewal of the existing license.

C. Effective immediately, any early learning possessing a class A or class B license that receives state or federal funds directly or indirectly from any source other than the federal food and nutrition programs is deemed a type III center and its current license remains valid for the term stated on the face of the license. A new license shall be issued upon renewal of the existing license.

D. Nothing in this Section shall prevent an early learning center otherwise qualified for a type I license from voluntarily seeking a type II or type III license, or an early learning center otherwise qualified for a type II license from voluntarily seeking a type III license, provided that such center meets the standards set forth for such licenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36 and R.S. 17:407.38(c).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:620 (April 2015), effective July 1, 2015.

### §319. Waivers

A. The state superintendent, pursuant to authority delegated by BESE, may, in specific instances, waive compliance with a minimum standard or regulation if it is determined that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of staff and children are not imperiled. If it is determined that the center or agency is meeting or exceeding the intent of the standard or regulation, the standard or regulation may be deemed to be met.

B. Minimum licensing standards shall not be waived unless the state superintendent determines, upon clear and convincing evidence, that the demonstrated economic impact is sufficiently great to make compliance impractical for the center despite diligent efforts, and alternative means have been put in place that ensure the health, safety, and well-being of children and staff.

C. An application for a waiver shall be submitted in writing to the Licensing Division using the request for waiver form.

D. Any waiver is issued at the discretion of the state superintendent and may be revoked by the state superintendent at any time, either upon violation of any condition attached to it or upon the determination of the state superintendent that continuance of the waiver is no longer in the best interest of children in care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:620 (April 2015), effective July 1, 2015.

## Chapter 5. Ownership of Early Learning Centers

### §501. Definitions

*Corporation*—any entity incorporated in Louisiana, or incorporated in another state and registered with the secretary of state in Louisiana, and legally authorized to do business in Louisiana.

*Individual Owner*—a natural person who directly owns a center without setting up a juridical entity.

*Juridical Entity*—a corporation, partnership, limited-liability company, church, university or governmental entity

*Natural Person*—a human being.

*Ownership*—the right that confers on a person direct, immediate and exclusive authority over a thing. The owner of a thing may use, enjoy and dispose of it within the limits and under the conditions established by law.

1. *Direct Ownership*—when the immediate owner is a natural person who exercises control personally rather than through a juridical entity.

2. *Indirect Ownership*—when the immediate owner is a juridical entity.

*Partnership*—any general or limited *partnership* licensed or authorized to do business in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.31 et seq., R.S. 17:407.41, and R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:620 (April 2015), effective July 1, 2015.

### **§503. Individuals and Entities as Owners for Licensing Purposes**

A. Individuals by organizational type who are considered owners for licensing purposes:

1. *individuals*—*individual* and spouse, unless the business is the separate property of the licensee acquired before his or her marriage, acquired through a judicial separation of property agreement or acquired via a judicial termination of the community of acquets and gains;

2. *partnerships*—all limited or general partners and managers, including but not limited to all persons registered as limited or general partners in the Secretary of State's Corporations Division;

3. *head start centers*—individual responsible for supervising center directors;

4. *church-owned, government entity, or university-owned*—any clergy member or board member that is present in the early learning center during the hours of operation or when children are present. Clergy or board members not present in the early learning center shall complete a statement attesting to such;

5. *corporations* (includes *limited liability companies*)—

a. any person who has 25 percent or greater share in the ownership or management of the business; or

b. any person who has less than a 25 percent share in the ownership or management of the business and meets one or more of the following criteria:

i. has unsupervised access to the children in care at the center;

ii. is present in the center during hours of operation;

iii. makes decisions regarding the day-to-day operations of the center;

iv. hires or fires staff including the director; or

v. oversees staff or conducts personnel evaluations of the staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.31 et seq., R.S. 17:407.41, and R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:621 (April 2015), effective July 1, 2015.

### **§505. Prohibitions**

A. Criminal Offenses. No person who has been convicted of, or pled guilty or nolo contendere to any offense listed in R.S. 15:587.1(C), shall directly or indirectly own, operate, or participate in the governance of an early learning center.

B. Crimes of Fraud. In addition, neither an owner, nor a director, nor a director designee shall have been convicted of, or pled guilty or nolo contendere to any of the following crimes of fraud: 18 U.S.C. 287, 18 U.S.C. 1341, R.S. 14:67.11, R.S. 14:68.2, R.S. 14:70, R.S. 14:70.1, R.S. 14:70.4, R.S. 14:70.5, R.S. 14:70.7, R.S. 14:70.8, R.S. 14:71, R.S. 14:71.1, R.S. 14:71.3, R.S. 14:72, R.S. 14:72.1, R.S. 14:72.1.1, R.S. 14:72.4, R.S. 14:72.5, R.S. 14:73.5, and R.S. 14:133.

C. State Central Registry in DCFS. No individual whose name is recorded on the state central registry within DCFS as a perpetrator for a justified (valid) finding of abuse or neglect of a child pursuant to R.S. 46:1414.1 shall directly or indirectly own, operate, or participate in the governance of an early learning center, unless the individual has a current determination from DCFS indicating that he or she does not pose a risk to children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:621 (April 2015), effective July 1, 2015.

### **§507. Criminal Background Checks for Owners**

A. All owners of an early learning center shall provide the center documentation of a satisfactory fingerprint based criminal background check (CBC) or provide the center information, signatures and fingerprints necessary for the center to obtain a CBC. A copy of a CBC shall be submitted for each owner with an initial application for licensure and the center shall have copies of said documentation on-site at all times and available for inspection upon request by the Licensing Division.

1. CBC from Bureau. An early learning center may request a CBC from the Louisiana Bureau of Criminal Identification and Information (bureau) for any owner by submitting a request to the bureau that shall be made on a form prepared by the bureau, signed by a responsible officer or official of the center, and include a statement signed by the person about whom the request is being made giving permission for such information to be released and the person's fingerprints in a form acceptable to the bureau.

2. Certified Copy of Individual's CBC. An owner of a center may provide a certified copy of his/her CBC obtained from the bureau to the center, and it shall be accepted for a period of one year from the date of issuance by the bureau. Prior to the one year expiration of an owner provided certified CBC, a new satisfactory fingerprint based CBC shall be obtained by the center or the person is no longer eligible to own, operate, or participate in the governance of the center.

3. Affidavits for Specified Owners. If a person owns less than a 25 percent share in the ownership or management of an early learning center and does not meet one or more of the criteria listed in §503.A.5.b, said owner may submit a

signed, notarized affidavit to the center in lieu of providing a CBC. The affidavit shall acknowledge that the individual has less than a 25 percent share in the ownership or management of the early learning center and does not meet any of the criteria listed in §503.A.5.b.

B. New members and owners that are to be added to a partnership, church, corporation, limited liability company or governmental entity, where such change does not constitute a change in ownership for licensing purposes, shall provide the center with documentation of a satisfactory CBC in the same manner as original owners and members.

C. A CBC is satisfactory for purposes of this Bulletin if it shows no arrests for any enumerated offense, or if an arrest is shown on the CBC for any excludable offense, the CBC or documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction. A plea of guilty or nolo contendere shall be deemed to be a conviction.

D. If a CBC shows that any owner, operator or other participant in the governance of the center has been convicted of or pled guilty or nolo contendere of any enumerated offense under R.S. 15:587.1(C), or those crimes of fraud listed in §505.B, the center, upon receipt of the result, shall submit the information to the Licensing Division within 24 hours or no later than the next business day, whichever is sooner.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:407.42.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:621 (April 2015), effective July 1, 2015.

#### **§509. State Central Registry Disclosure Forms for Owners**

A. An early learning center shall obtain a copy of a completed state central registry disclosure form indicating no justified (valid) finding of abuse or neglect, or a current finding by the DCFS indicating that the individual does not pose a risk to children, for each owner with its initial application for a license, and the center shall have said documentation on-site at all times and available for inspection upon request by the Licensing Division.

B. All owners of an early learning center shall report on the state central registry disclosure form prior to being on the premises of the center, and shall update the report annually, and at any time upon request by the Licensing Division, whether or not the individual's name is currently recorded on the state central registry for a justified finding of abuse or neglect, or shall submit a current finding by the DCFS indicating that the individual does not pose a risk to children.

C. Any state central registry disclosure form that is maintained by an early learning center is subject to the confidentiality provisions of R.S. 46:56(F) pertaining to investigations of abuse and neglect.

D. New members and owners to be added to a partnership, church, corporation, limited liability corporation or governmental entity, where such change does not constitute a change in ownership for licensing purposes, shall provide a completed state central registry disclosure form or a current finding by the DCFS indicating that the individual does not pose a risk to children in the same manner as original owners and members.

E. Within 24 hours or no later than the next business day, whichever is shorter, of current owners receiving notice of a justified (valid) finding of child abuse and/or neglect against them, an updated state central registry disclosure form shall be completed by the owner and submitted to Licensing Division.

1. The owner shall request a risk evaluation assessment from DCFS in accordance with LAC 67:I.305 within 10 calendar days from completion of the state central registry disclosure form or the license shall be revoked.

2. Immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the owner, at any and all times when he/she is in the presence of a child or children, shall be directly supervised by a paid staff (employee) of the center. Under no circumstances may an owner with a justified finding be left alone and unsupervised with a child or children pending the determination by DCFS that the owner does not pose a risk to children.

3. Any owner with a justified (valid) finding of abuse and/or neglect on the state central registry must submit, together with the disclosure form required above either:

a. a written, signed, and dated statement to Licensing Division acknowledging that they are aware of the supervision requirements and understand that under no circumstances are they to be left alone and unsupervised with a child and that they shall be directly supervised by a paid staff (employee) of the center; or

b. a written, signed, and dated statement to Licensing Division that he/she will not be on the premises of the center at any time when a child is present nor during the center's hours of operation.

4. If DCFS determines that the owner poses a risk to children, the center shall no longer be eligible for licensure and an existing license shall be revoked.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:407.41.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:622 (April 2015), effective July 1, 2015.

### **Chapter 7. Licensing Process and Procedures**

#### **§701. Initial Application Process**

A. Forms. Applications for licensure of new early learning centers shall be made to the Licensing Division on forms furnished by the Licensing Division. See the Department of Education's website for current forms and for directions as to how and where applications for licensure may be submitted.

B. Each center shall provide a current email address to the Licensing Division on its initial application for licensure. The center shall maintain a current email address and notify the Licensing Division immediately upon a change in such email address by submitting a change of email address form to amend the existing licensing application. All communication from the Licensing Division shall be sent via email to the most recent email address provided to the Licensing Division on the center's current application for licensure or renewal.

C. Initial Licensing Packet. After the center's location has been established, a completed initial licensing packet shall be submitted to the Licensing Division.

D. Review of Licensing Packet

1. If a submitted application is incomplete, the Licensing Division shall notify the applicant of the missing information.

a. The applicant shall have 21 calendar days from receipt of notification to submit the additional information.

b. If the Licensing Division does not receive the additional information within 14 calendar days of notification, the application shall be closed and the application fee shall be forfeited.

c. Once an application has been closed, an applicant still interested in obtaining a license must submit a new application and application fee.

2. If the application is complete, the Licensing Division will notify the applicant and will request the Office of State Fire Marshal, city fire (if applicable), Office of Public Health, and Office of Early Childhood to make an inspection of the center, as per their standards. However, it is the applicant's responsibility to obtain these inspections and approvals.

a. Upon receipt of notification that an application is complete, the applicant has 45 calendar days in which to coordinate an on-site inspection of the center by the Licensing Division.

b. If the applicant fails to coordinate the inspection within 45 calendar days, the application shall be closed and the application fee shall be forfeited.

c. Once an application has been closed, an applicant still interested in obtaining a license must submit a new application and application fee.

E. Initial Licensure. A license shall be issued on a completed initial application when the following items have been met and written verification has been received by the Licensing Division:

1. Office of State Fire Marshal approval;
2. Office of Public Health approval;
3. city fire approval, if applicable;
4. zoning approval, if applicable;
5. Office of Early Childhood approval, if type III center;
6. full licensure fee paid;
7. licensure inspection verifying compliance with all minimum standards;

8. satisfactory criminal background check for all owners, operators, and staff; and

9. completed state central registry disclosure forms for all owners, operators, and staff indicating no justified (valid) finding of abuse and/or neglect, or documentation from DCFS indicating that the owner, operator, or staff person does not pose a risk to children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:622 (April 2015), effective July 1, 2015.

### **§703. Initial Inspection Process**

A. An initial licensing inspection, including a measurement of the indoor and outdoor enclosed space, shall be conducted at the center to assure compliance with all licensing laws, regulations and minimum standards.

1. If the center is in operation in violation of the law, the initial licensing inspection shall not be conducted, the application shall be denied and the Licensing Division shall pursue appropriate legal remedies.

2. If the initial inspection indicates that an early learning center is in compliance with all licensing laws, regulations and minimum standards, the Licensing Division may issue a license.

3. If an initial inspection indicates that an early learning center is in compliance with all minimum standards, except the following, the center will be allowed 90 calendar days from receipt of the initial completed application to submit documentation of compliance with the following, and the application may be denied if the information is not received within the 90 calendar days:

- a. Office of State Fire Marshal approval;
- b. city fire approval, if applicable;
- c. Office of Public Health approval;
- d. Office of Early Childhood approval, if type III center;
- e. documentation of a satisfactory fingerprint based criminal background check for all staff not previously provided; and
- f. documentation of a completed state central registry disclosure form noting indicating no justified (valid) finding of abuse and/or neglect of a child or a finding from DCFS that the person does not pose a risk to children for all staff not previously provided.

B. Once it has been determined that a center is in compliance with all licensing laws, regulations and minimum standards, the Licensing Division shall notify the center of its total licensure fee based on its capacity.

1. The \$25 application fee shall be applied towards the total licensure fee.

2. The total licensure fee shall be due prior to the issuance of a license, and no later than 90 calendar days from receipt of the initial completed application packet.

3. Pursuant to R.S. 17:407.39(G), the annual licensure fee shall not apply to type I centers owned or operated by churches or religious organizations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:623 (April 2015), effective July 1, 2015.

### **§705. Access**

A. An early learning center shall allow the Licensing Division staff access to the center, the children, and all files and records at any time during any hours of operation or any time a child is present.

B. Licensing Division staff shall be allowed to interview any center staff person deemed necessary by the Licensing Division.

C. Licensing Division staff shall be admitted into a center immediately and without delay and shall be given free access to all areas of a center, including its grounds.

D. If any portion of a center is set aside for private use by an owner of the center, Licensing Division staff shall be permitted to verify that no children are present in that portion of the center and that such private areas are inaccessible to children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.43.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:623 (April 2015), effective July 1, 2015.

### **§707. Fees**

A. All fees shall be paid by money order, certified check, government check, or electronic payment where available, and are non-refundable. Payments shall be made to the Louisiana Department of Education, Licensing Division.

#### **1. Administrative Fees**

a. An administrative fee of \$25 shall be submitted with each application for initial licensure. This fee shall be applied toward the total licensure fee, which is due prior to the issuance of an initial license, if applicable.

b. An administrative fee of \$25 shall be submitted for any change that requires the issuance of a new license or the reissuance of a current license outside of the regular renewal of the license. Some examples include changes in capacity, name, age range, and transportation.

c. An administrative fee of \$5 is required to issue a duplicate license with no changes.

d. All early learning centers are required to pay administrative fees.

#### **2. Annual Licensure Fees**

a. The full licensure fee based on licensed capacity, as provided in §313, shall be submitted prior to the issuance of an initial license and shall be submitted with all renewal applications.

b. The full licensure fee based on licensed capacity shall be submitted with an application for a change of ownership, location or type of license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39 and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015.

### **§709. Validity of Licenses**

A. A license shall apply only to the location stated on the license and shall not transfer from one location to another or from one owner to another.

B. If the location or owner of an early learning center changes, the license becomes null and void.

C. When a business is sold, discontinued, the operation has moved to a new location, or the license has been revoked, the current license immediately becomes null and void.

D. A new application shall not be processed if an application or license is currently on file with the Licensing Division for the same location, with the exception of a change of ownership application.

E. Two licenses shall not be issued simultaneously for the same physical address.

F. All early learning care and education provided at a physical address shall be included under one license.

G. If an early learning center operates summer and/or holiday camps at the location, such care shall be included under a single license for the location.

H. All new construction or renovation of a center requires approval from the Office of State Fire Marshal, the Office of Public Health and the Licensing Division prior to occupying the new or renovated space.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39(C) and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015.

### **§711. Renewal Applications**

A. A license must be renewed by the last day of the month in which the current license expires.

B. An application for renewal of a license shall be submitted to the Licensing Division on a form furnished by the Licensing Division.

C. Each center is solely responsible for obtaining the form to apply for renewal of a license and timely applying for renewal. Notice of time for renewal shall not be sent by the Licensing Division.

D. Renewal applications should be submitted prior to the first day of the month in which the current license expires.

E. If a complete renewal application, including the total annual licensure fee and all required documentation, is not received by or postmarked by the last day of the month in which the license expires, the license expires and shall not be renewed.

F. If a license expires, the early learning center shall cease operation by close of business on the expiration date stated on the license. An application for a new license shall be required if the owner desires to resume operations at the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40 and R.S. 17:407.43.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015.

### **§713. Renewal and Other Inspection Procedures**

A. Annual inspections and current approvals by the Office of Public Health, Office of State Fire Marshal, city fire (if applicable), Office of Early Childhood (if type III center) and the Licensing Division shall be required before the expiration of an existing license.

1. Required approvals from these agencies may be extended by such authorized agencies through written communication with the center or the Licensing Division.

2. A renewal inspection by the Licensing Division is similar to the initial licensing inspection.

a. Documentation of the previous 12 months of activities at a center shall be available for review during renewal and other inspections.

B. After initial licensure, inspections shall be conducted as deemed necessary by the Licensing Division at regular intervals not to exceed one year, and without notice to the early learning center.

C. The director shall have an opportunity to review inspection deficiencies (if any) in consultation with Licensing Division staff.

1. If the director is not present at the center or is unable or unwilling to review the inspection deficiencies, the Licensing Division staff shall review with any staff at the center.

2. If Licensing Division staff is unable to conduct such a review due to the absence or refusal of staff to participate, the licensing staff shall leave a copy of the deficiencies at the center, and this shall constitute notice of the deficiencies to the center and its owners and director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015.



## **Chapter 9. Changes Requiring a New License**

### **§901. Change in Location**

A. Change in Location. When a center changes location, it is considered a new operation, and a new application and fee for licensure must be submitted and a new license obtained, prior to opening at the new location.

#### **B. Temporary Change in Location**

1. If a currently licensed center closes for reasons, including but not limited to fire on the premises or structural damages to the center, and the children are relocated to a temporary location until repairs have been made, it is considered a new operation and a new license is required prior to opening at the new temporary location.

2. The license at the existing location shall not transfer to the temporary location. The existing license shall be closed on the last day care was provided at that location.

3. Any change of location, however temporary, renders the license for the existing center null and void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39 and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015.

### **§903. Change of Ownership**

A. When a center changes ownership, the current license is not transferable.

B. Prior to the ownership change, the new owner shall submit a new application and fee for licensure and obtain a new license.

C. Any of the following constitute a change of ownership:

1. change in federal tax ID number;
2. change in state tax ID number;
3. change in profit status;
4. any transfer of the center from an individual or juridical entity to any other individual or juridical entity;
5. termination of child care services by one owner and beginning of services by a different owner without a break in services to children; and
6. addition of an individual to the existing ownership on file with the Licensing Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39 and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015.

### **§905. Change in License Type**

A. Any early learning center holding a type III license that intends to change its license type at any time during the following calendar year shall notify the Licensing Division of its intent to change license type no later than December first of the preceding year.

B. When a center changes license type, the following information shall be submitted to the Licensing Division prior to the issuance of a new license:

1. written request from the center;
2. full licensure fee; and
3. verification of compliance with current early learning center regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36 and R.S. 17:407.38-39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015.

### **§907. Notification of Temporary or Permanent Closure**

A. A center shall notify the Licensing Division in writing of a temporary closure (closure of more than 14 calendar days, but less than 30 calendar days) within one day of closure of the center.

B. The provider shall notify the Licensing Division in writing of a permanent closure of center (closure of more than 30 calendar days) within seven calendar days of closure of the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39 and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015.

## **Chapter 11. Operating Violations and Incidents; Fines; Appeals**

### **§1101. Non-Critical Operating Violations**

A. When non-critical violations are identified during an on-site inspection, the Licensing Division may allow the center an opportunity to immediately remedy the violation or deficiency, if the Licensing Division determines that allowing such remedy does not endanger the health, safety, or well-being of any child. The Licensing Division may consider the remedy as acceptable corrective action.

AUTHORITY NOTE: Promulgated in accordance with .S. 17:407.39 and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015.

### **§1103. Critical Incidents and Required Notifications**

A. An early learning center shall make immediate notification to emergency personnel, law enforcement as applicable, and other appropriate agencies for the following types of critical incidents involving children in care:

1. death;
2. serious injury or illness that required medical attention;
3. reportable infectious diseases and conditions listed in LAC 51.II.105; and
4. any other significant event relating to the health, safety, or well-being of any child, including but not limited to a lost child, an emergency situation, fire or other structural damage, or closure of the center.

B. The parent shall be contacted immediately following any immediate notifications made under Subsection A.

C. The Licensing Division and other appropriate agencies shall be notified via email within 24 hours of the incident.

D. The Licensing Division shall be notified by written report within 24 hours of the incident or the next business day. This written notification shall be made on the Licensing Division's critical incidents report form and shall contain all information requested on the form.

E. Reporting deadlines may be adjusted in the event of a natural catastrophe and/or disaster, as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015.

#### **§1105. Identified Critical Violations and Fines**

A. For violations related to the following critical licensing standards, when such violation does not pose an imminent threat to the health, safety, rights, or welfare of a child, the Licensing Division may issue a written warning in lieu of revoking or refusing to renew the license:

1. Supervision (§1713);
2. Criminal History Records Check (§507, §1703);
3. State Central Registry Disclosure (§509, §1705);
4. Child to Staff Ratios (§1711);
5. Motor Vehicle Passenger Checks (§2107); and
6. Failure to Report Critical Incidents (§1103).

B. Where such a violation does not result in the revocation of or refusal to renew a license, the Licensing Division shall issue a written warning/notice of violation of the standards listed in Subsection A that shall include:

1. a corrective action plan (CAP) that outlines the required actions which shall be implemented or completed immediately; and
2. notice that failure to timely take the required action may result in the assessment of a civil fine or the revocation of or refusal to renew the license, or both.

C. Second Violation or Deficiency. If the CAP is not timely implemented or if a second violation related to the same standard occurs within a 24-month period, and does not result in the revocation of or refusal to renew a license, the Licensing Division shall issue a written notice of violation that:

1. may include the requirement to take additional corrective action; and
2. may include the assessment of a civil fine of up to \$250 per day for each day of the violation, not to exceed \$2,000 within a consecutive 12-month period; and
  - a. the factors to be used in determining the type of sanction imposed include the severity of the risk, actual harm and mitigating circumstances, failure to implement a corrective action plan, history of noncompliance, continuing and repeat deficiencies, good-faith effort to comply and any other relevant factors;
3. shall include notice of the right to request departmental reconsideration if a civil fine/sanction is assessed; and that failure to request departmental consideration shall result in the loss of any further right to appeal the civil fine/sanction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015.

#### **§1107. Departmental Reconsideration of Assessment of Fine**

A. A request for departmental reconsideration of an assessment of fine for a violation of the licensing standards listed in §1105.A must be received by the Licensing Division within 10 calendar days of the center's receipt of a written notice of assessment of fine.

B. If a request for departmental reconsideration is not timely received by the Licensing Division, the center shall not have any further right to appeal the assessment of fine.

C. A request for departmental reconsideration shall:

1. include a copy of the original assessment of fine;
2. provide any new information, if applicable; and
3. provide specific reasons as to why the Licensing Division should reconsider the assessment of fine.

D. The Licensing Division shall provide notice to a center in writing of its decision after reconsidering the assessment of fine.

E. If the Licensing Division determines that the assessment of fine is justified, the Licensing Division shall provide the center with written notice of the decision that includes notice of the center's right to request an appeal to the Division of Administrative Law (DAL) within 15 calendar days of receipt of said notice and the procedures for requesting an appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015.

#### **§1109. Administrative Appeal of Assessment of Fine**

A. A written request for an appeal to the Division of Administrative Law (DAL) of a civil fine for a violation of the licensing standards listed in §1105.A must be received by the Licensing Division within 15 calendar days of the center's receipt of notice of the Licensing Division's decision upon reconsideration.

B. The written request for an appeal to the DAL shall include:

1. a copy of the original assessment of fine;
2. a copy of the decision from the Licensing Division upon reconsideration; and
3. the specific reasons the center believes the decision of the Licensing Division was reached in error.

C. The Licensing Division shall notify the DAL of an appeal request within 10 calendar days of receipt of the request.

D. The DAL shall conduct a hearing in the matter in accordance with R.S. 17:407.46 and the Administrative Procedure Act found at R.S. 49:950 et seq.

E. The appeal shall be suspensive.

F. During the pendency of an appeal, the center may continue to receive funding for services provided to those eligible children as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015.

#### **§1111. Payment of Fines**

A. Fines for violations of critical licensing standards listed in §1105.A are due within 30 calendar days of receipt of written notice of assessment of fines, unless the center timely submits a request for departmental reconsideration.

B. If the Licensing Division notifies a center that its decision upon reconsideration is that the original decision is justified, the fine remains due within 30 calendar days of the original notice of assessment of fines or within 14 calendar days of notice of the decision upon reconsideration, whichever is later, unless the center timely submits a request for an administrative appeal to the Licensing Division.

C. If the department timely receives a request for an administrative appeal for an assessment of fines based on a violation of the critical licensing standards listed in §1105.A

and said assessment is affirmed by the DAL, the fine shall be due and payable within 30 calendar days of receipt of notice of the decision by the DAL, unless the center timely seeks judicial review of the administrative decision.

D. If a center timely seeks judicial review of the administrative decision, and judicial review is denied or dismissed, the fines shall be due and payable within 30 calendar days of the denial or dismissal.

E. If a center does not timely pay a fine for a violation of the critical licensing standards listed in §1105.A:

1. its license may be immediately revoked;
2. the Licensing Division shall refer uncollected fines to the Office of the Attorney General for collection, and the organization owing the fine shall be assessed, and shall be required to pay, the additional collection fee assessed by the Office of the Attorney General;
3. interest shall begin to accrue on a fine at the current judicial rate on the day following the day the fine becomes due and payable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015.

### **Chapter 13. Denial, Revocation or Non-Renewal of License**

#### **§1301. Reasons for Denial, Revocation or Refusal to Renew**

A. The following is an illustrative, but not exclusive, list of reasons that an application for licensure may be denied or a license may be revoked or renewal refused:

1. violation of any provision of R.S. 17:407.31 et seq.;
2. violation of any rules and regulations in this bulletin;
3. failure to meet any minimum standards in this bulletin;
4. failure to take steps or actions reasonably necessary to ensure the health and safety and well-being of children in care;
5. failure to timely comply with a corrective action plan approved by the Licensing Division;
6. failure to obtain approval of any agency whose approval is required for licensure;
7. failure to report a known or suspected incident of abuse or neglect to child welfare authorities;
8. denial of center access to Licensing Division staff or failure or refusal to cooperate with Licensing Division staff in the performance of official duties;
9. history of non-compliance with licensing laws, rules, or minimum standards;
10. nonpayment of licensure fee;
11. failure to submit application for renewal prior to the expiration of the license;
12. if the owner or director is not reputable;
13. if the owner, director, or a staff member is unsuited for the care of children in the center;
14. any validated instance of corporal punishment, physical punishment, cruel, severe, or unusual punishment, or physical or sexual abuse or neglect, if the owner is responsible or if the employee who is responsible remains in the employment of the center;
15. any act of fraud, such as the submission of false or altered documents or information; and

16. the center is closed and there are no plans for immediate reopening and no means of verifying compliance with licensing laws, regulations and minimum standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015.

#### **§1303. Notice of Denial, Revocation or Refusal to Renew**

A. The Licensing Division shall provide written notice to a center of its reasons for the denial of an application for licensure or the revocation of or refusal to renew a license and of the right to appeal the decision to the Division of Administrative Law (DAL).

B. The denial, revocation or refusal to renew shall be effective on the last day for applying to appeal the action, if the action is not appealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015.

#### **§1305. Posting of Notice of Revocation**

A. The Licensing Division shall prominently post notice of a revocation action at each public entrance of the center within one business day of such action.

B. Such notice of revocation shall remain posted and visible to parents of children at the center throughout the pendency of any appeals of the revocation.

C. The center shall not permit the destruction or removal of a notice of revocation action and shall ensure that the notice continues to be visible to any person entering the center throughout the pendency of any appeals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015.

#### **§1307. Appeal of Denial, Revocation or Refusal to Renew**

A. A center has 30 calendar days to request an appeal of the denial of its application for licensure and 15 calendar days to request an appeal of the revocation of or the refusal to renew its license.

B. The Licensing Division must receive a written request for an appeal within 30 calendar days of the center's receipt of notice of the denial of its application and within 15 calendar days of the center's receipt of notice of revocation of or refusal to renew its license.

C. A center may continue to operate during the appeals process, as provided by the Administrative Procedure Act found at R.S. 49:95 et seq.

D. A request for an appeal submitted to the Licensing Division shall include:

1. a copy of the written reasons for denial, revocation or refusal to renew; and
2. written identification of specific areas of the decision believed to be erroneous and/or specific reasons the decision is believed to have been reached in error.

E. The Licensing Division shall notify the Division of Administrative Law (DAL) within 10 calendar of receipt of a timely request for an appeal of the denial of an application or the revocation of or refusal to renew a license.

F. The DAL shall hold a hearing no later than 30 calendar days after receipt of such notice, with an administrative ruling provided to the center no later than 15 calendar days from the date of the hearing for revocation or refusal to renew a license, or within 30 calendar days from the date of a hearing for the denial of a license.

G. If the DAL affirms the decision of the Licensing Division, or if the appeal is dismissed, the center shall terminate operations immediately.

H. The Licensing Division shall have the right to seek judicial review of any final decision or order rendered by the DAL in any appeal hearing arising under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.45.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015.

### **§1309. Disqualification Period Following Revocation or Refusal to Renew**

A. If a license is revoked or renewal is refused due to failure to comply with licensing laws, regulations or minimum standards, or if a license is surrendered to avoid such adverse action, a center shall not be qualified to submit a new application for licensure for a minimum disqualification period of 24 months.

B. The minimum disqualification period shall begin on the later of:

1. the effective date of revocation, refusal to renew, or surrender to avoid adverse action; or
2. the day after all appeal rights have been exhausted.

C. Any unlicensed operation during the disqualification period shall interrupt running of the 24-month prescriptive period until the Licensing Division has verification that the unlicensed operations have ceased.

D. Any pending application by the same center shall be treated as an application for a new center for purposes of this Section and may be denied and subject to the disqualification period.

E. If the owner of a center has multiple licensed early learning centers and the license of one center is revoked, renewal is refused, or the license is surrendered to avoid adverse action, a capacity increase may be denied at any of the other existing licensed centers for the minimum disqualification period.

F. If the owner of a center has multiple licensed early learning centers, and a license is revoked, renewal is refused, or the license is surrendered to avoid adverse action for one center due to the actions on the part of the owner or a director who is responsible for more than one center, the licenses at all locations may be reviewed for possible revocation or refusal to renew.

G. If an applicant has a history of non-compliance with licensing laws, regulations or minimum standards, including but not limited to operating without a license, or has been denied one or more previous applications for licensure, the Licensing Division may refuse to accept a subsequent application from the applicant for the minimum disqualification period after the effective date of the most recent adverse action.

H. An application for a new license for a center whose license has been revoked or renewal has been refused, or whose license has been surrendered to avoid adverse action, may be denied if the applicant is an affiliate of the center.

1. *Affiliate* for purposes of this Section means:

- a. each partner or member of a partnership or limited liability company;
- b. each officer, director and stockholder of a corporation;
- c. and with respect to a natural person:
  - i. that person and any individual related by blood, marriage or adoption within the third degree of kinship to that person;
  - ii. any partnership, together with any or all of its partners, in which that person is a partner; and
  - iii. any corporation in which that person is an officer, director or stockholder, or directly or indirectly holds a controlling interest;
- d. with respect to any of the above, any mandatary, agent or representative, or any other natural or juridical person acting at the direction or on behalf of the licensee or applicant; and
- e. the director of any such early learning center.

I. If a license is revoked due solely to the disapproval from any agency whose approval is required for licensure, or due solely to the center being closed and with no immediate plans for re-opening within 30 calendar days and with no means for the Licensing Division to verify compliance with minimum standards for licensure, the disqualification period may be partially or totally waived at the discretion of the Licensing Division.

1. The Licensing Division may accept a subsequent application for a license that shall be reviewed by the Licensing Division prior to a decision being made to grant a license.

2. The Licensing Division reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

J. If an application for a license has been denied or a license revoked, renewal refused or the license surrendered to avoid adverse action, any owner, officer, member, manager, director or administrator of such licensee shall be prohibited from owning, managing, directing or operating another licensed center for a disqualification period of not less than 24 months from the date of the final disposition of the most recent adverse action.

1. The lapse of 24 months shall not automatically restore eligibility to a person disqualified under this Subsection.

2. The Licensing Division, at its sole discretion, may determine if a longer period of disqualification is warranted based upon the facts of each case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.44 and R.S. 17:407.45.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:628 (April 2015), effective July 1, 2015.

### **§1311. Licensure Process Following Disqualification Period**

A. Only centers and affiliates that have completed the 24-month disqualification period and/or other disqualification sanctions imposed by the Licensing Division, may apply for a new license in accordance with this bulletin.

B. Any application for a new license submitted after the minimum disqualification period shall be reviewed by the Licensing Division for any unresolved matters pertaining to

the disqualification prior to making a determination to grant a license. The right to deny a subsequent application for licensure rests solely in the discretion of the Licensing Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407. 44 and R.S. 17:407.45.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:628 (April 2015), effective July 1, 2015.

## **Chapter 15. Minimum General Requirements and Standards**

### **§1501. Operations**

A. A center shall operate within the licensed capacity, age range, hours of operation and other specific services designated on its license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:629 (April 2015), effective July 1, 2015.

### **§1503. General Liability Insurance Policy**

A. A center shall maintain in force at all times current commercial liability insurance for the operation of the center to ensure medical coverage for children in the event of accident or injury.

B. A center is responsible for payment of medical expenses of a child injured while in the center's care.

C. Documentation of commercial liability insurance shall consist of the insurance policy or current binder that includes the name of the early learning center, physical address of the center, name of the insurance company, policy number, period of coverage and explanation of the coverage.

D. Parents shall not be required to waive the center's responsibility.

E. Parents may elect to use their own insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:629 (April 2015), effective July 1, 2015.

### **§1505. Visitors**

A. Any *visitor*, as defined in §103, to the center shall be accompanied by an adult staff person at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:629 (April 2015), effective July 1, 2015.

### **§1507. Daily Attendance Records**

A. Children. A daily attendance record for children shall be maintained that shall:

1. include the child's first and last name, arrival and departure times, and first and last name of person or entity to whom the child is released;

2. accurately reflect children on the center premises at any given time; and

3. be used to sign in and out if a child leaves and returns to the center during the day.

B. Staff and Owners. A daily attendance record for all staff members and owners shall be maintained that shall:

1. include the first and last name of the staff member or owner and arrival and departure times;

2. accurately reflect the staff members and owners on the center premises at any given time; and

3. be used to document staff members and owners who leave and return to the center during the day.

C. Independent Contractors. A daily attendance record for all extracurricular personnel, therapeutic professionals and other independent contractors, to include the first and last name, date of visit, arrival and departure times, and purpose of the visit.

D. Student Trainees. A daily attendance record for all student trainees to include the student's first and last name, school affiliation and date and arrival and departure times.

E. Visitors. A daily attendance record for all visitors to include the name, date of visit, arrival and departure times, and the purpose of the visit.

F. Daily attendance records shall be maintained for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:629 (April 2015), effective July 1, 2015.

### **§1509. Policies**

A. An early learning center shall establish in writing and implement the following policies and minimum provisions of such policies:

1. child abuse and neglect policy:

- a. as mandated reporters, all staff and owners shall report any suspected abuse or neglect of a child to the Louisiana Child Protection Statewide Hotline (855) 4LA-KIDS [(855) 452-5437];

- b. an early learning center shall not delay the reporting of suspected abuse or neglect to the Child Protection Statewide Hotline in order to conduct an internal investigation to verify the abuse or neglect allegations; and

- c. an early learning center shall not require staff to report suspected abuse or neglect to the center or management prior to reporting it to the Child Protection Statewide Hotline;

2. non-discrimination policy that prohibits discrimination on the basis of race, color, creed, sex, national origin, handicap, ancestry or whether a child is being breastfed;

3. admissions policy that includes admission criteria;

4. disclosure of information policy that provides notice to parents of the licensing authority of the Licensing Division and the availability of licensing surveys/inspections, regulations and information regarding early learning centers from the Department of Education's website;

5. complaint policy:

- a. parents shall be advised of the licensing authority of the Licensing Division along with the current telephone number and email address. Parents shall also be advised that they may call or write the Licensing Division should they have significant, unresolved licensing complaints;

6. parental access policy:

- a. parents shall be allowed to visit the center anytime during its regular hours of operation and when children are present;

7. parental involvement policy:

- a. parents shall be offered a minimum of two opportunities for involvement each year, which may include but are not limited to, an open house, parent education

session, parent and staff conference, family pot luck dinner, holiday party or parent or grandparent's day;

8. behavior management policy:

a. each center shall develop and implement a written behavior management policy describing the methods of behavior guidance and management that shall be used at the center;

b. the behavior management policy shall prohibit children from being subject to any of the following:

i. physical or corporal punishment which includes but is not limited to yelling, slapping, spanking, yanking, shaking, pinching, exposure to extreme temperatures or other measures producing physical pain, putting anything in the mouth of a child, requiring a child to exercise, or placing a child in an uncomfortable position;

ii. verbal abuse, which includes but is not limited to using offensive or profane language, telling a child to "shut up", or making derogatory remarks about children or family members of children in the presence of children;

iii. the threat of a prohibited action even if there is no intent to follow through with the threat;

iv. being disciplined by another child;

v. being bullied by another child;

vi. being deprived of food or beverages;

vii. being restrained by devices such as high chairs or feeding tables for disciplinary purposes; and

viii. having active play time withheld for disciplinary purposes, except timeout may be used during active play time for an infraction incurred during the playtime;

c. time out:

i. time out shall not be used for children under age two;

ii. a time out shall take place within sight of staff;

iii. the length of each time out shall be based on the age of the child and shall not exceed one minute per year of age;

iv. for children over age six, a time out may be extended beyond one minute per year of age, if a signed and dated statement, including a maximum time limit, from the parent granting such permission, is on file at the center;

9. electronic devices policy that provides that all activities involving electronic devices, including but not limited to television, movies, games, videos, computers and hand held electronic devices, shall adhere to the following limitations:

a. electronic device activities for children under age two are prohibited; and

b. time allowed for electronic device activities for children ages two and above shall not exceed two hours per day;

10. computer practices policy that requires computers that allow internet access by children to be equipped with monitoring or filtering software that limits access by children to inappropriate websites, e-mail, and instant messaging;

11. programs, movies and video games policy:

a. programs, movies, and video games with violent or adult content, including but not limited to soap operas, television news, and sports programs aimed at audiences other than children, shall not be permitted in the presence of children;

b. all television, video, DVD, or other programming shall be suitable for the youngest child present;

c. "PG" programming or its television equivalent shall not be shown to children under age five;

d. "PG" programming shall only be viewed by children age five and above and shall require written parental authorization;

e. any programming with a rating more restrictive than "PG" is prohibited;

f. all video games shall be suitable for the youngest child with access to the games:

i. "E10+" rated games shall be permitted for children ages 10 years and older;

ii. "T" and "M" rated games are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:629 (April 2015), effective July 1, 2015.

**§1511. Procedures**

A. An early learning center shall establish in writing and implement procedures for:

1. physical activity:

a. children under age two shall be provided time and space for age appropriate physical activity for a minimum of 60 minutes per day;

b. children age two and older shall be provided a minimum of 60 minutes of physical activity per day that includes a combination of both teacher led and free play;

2. sleep/rest:

a. infants shall be allowed to sleep according to their individual schedules;

b. children under age four shall have daily rest time of at least 75 minutes in programs operating more than 5 hours per day;

c. children ages four and older shall be offered the opportunity for quiet time;

3. receiving and releasing a child from the center;

4. biting, treatment of bites and notifications to the parents of the children involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015.

**§1513. Schedules**

A. An early learning center shall establish in writing and post the following schedules:

1. schedule of days and hours of operation, including scheduled days and holidays when center is closed; and

2. daily schedule that includes times of planned activities, including early learning activities, allowing for flexibility and change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015.

**§1515. Child Records and Cumulative Files**

A. Cumulative File. A cumulative file shall be maintained on each child that shall include the following records:

1. an information form signed and dated by the parent and updated as changes occur, that contains:

a. name of child, date of birth, sex, date of admission;

b. name of parents and the home address of both child and parents;

c. phone numbers where parents may be reached while child is in care;

d. name and phone number of person to contact in an emergency if parents cannot be located promptly;

e. name and telephone number of child's physician, if applicable;

f. name and telephone number of the child's dentist, if applicable;

g. any special concerns, including but not limited to allergies, chronic illnesses, and any special needs of the child, if applicable; and

h. any special dietary needs, restrictions or food allergies or intolerances, if applicable. See Paragraph 4;

2. written authorization signed and dated by the parent to secure emergency medical treatment; and

3. written authorization signed and dated by the parent noting the first and last names of individuals to whom the child may be released other than the parents, including any other early learning centers, transportation services, and any person or persons who may remove the child from the center:

a. the parent may further authorize additional individuals via a text message or email to the center in unplanned situations and follow it with a written authorization;

b. a child shall never be released to anyone unless authorized in writing by the parent;

c. any additions and deletions to the list of authorized individuals shall be signed and dated by the parent;

d. the center shall verify the identity of the authorized person prior to releasing the child;

4. special diets:

a. unless the program is officially on the Child and Adult Care Food Program (CACFP), a parent may request special diet adjustments (i.e. no milk on a particular day);

b. if a center is on the CACFP, a written statement from a health care provider is required when the child requires a special diet for medical reasons;

c. a written statement from the parent is required when the child requires a modified diet.

**B. Consent to Release.** The center shall obtain written consent from the parent prior to releasing any information, recordings, or photographs from which the child might be identified, except to authorized state and federal agencies. This one-time written consent shall be obtained from the parent and updated as changes occur.

**C. Confidentiality.** The center shall maintain the confidentiality and security of all records of children. Center staff is prohibited from disclosing or knowingly permitting the disclosure of any information concerning the child or the family of the child, either directly or indirectly, to any unauthorized person.

**D. Retention of Records.** Records of children shall be maintained by a center for a minimum of three years from the date of termination of the child's enrollment at the center.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:407.40.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015.

## **Chapter 17. Minimum Staffing Requirements and Standards**

### **§1701. Prohibitions**

**A.** No person who has been convicted of, or pled guilty or nolo contendere to any crime included in R.S. 15:587.1(C) shall be hired by an early learning center as a volunteer, staff member, employee or independent contractor of any kind.

**B.** No individual whose name is recorded on the state central registry within DCFS as a perpetrator for a justified (valid) finding of abuse or neglect of a child shall be hired by a licensed early learning center as a volunteer or staff member unless the individual has a current finding from DCFS indicating that the individual does not pose a risk to children.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:407.42.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:631 (April 2015), effective July 1, 2015.

### **§1703. Criminal Background Checks for Volunteers, Staff, Visitors and Independent Contractors**

**A. Volunteers and Staff.** An early learning center shall obtain documentation of a satisfactory fingerprint based criminal background check (CBC) for each volunteer, staff member, or employee of any kind, prior to the person being present at the center or performing services for the center, and the center shall have copies of said documentation on-site at all times and available for inspection upon request by the Licensing Division.

**B. Visitors and Contractors.** An early learning center shall obtain documentation of a satisfactory fingerprint based CBC for each visitor or independent contractor of any kind, prior to the person being present at the center or performing services for the center unless the visitor or independent contractor will be accompanied at all times while on the center premises by an adult, paid, staff member who is not being counted in child to staff ratios, and the center shall have copies of said documentation on-site at all times and available for inspection upon request by the Licensing Division.

1. Documentation of the paid, adult staff member not otherwise counted in child to staff ratios who accompanied a visitor or independent contractor at all times while the visitor or contractor was on the center premises shall include the date, arrival and departure time of the visitor or contractor, language stating that the visit or contractor was accompanied by the staff member at all times while on the premises, and the signature of both the contractor and the accompanying staff member.

**C. Parents, Grandparents and Siblings**

1. Parents of an enrolled child, or other persons authorized in writing by the parents to pick up their child, who are only bringing a child to or picking up a child from an early learning center are not required to have a CBC.

2. Parents, grandparents and siblings of an enrolled child who are attending a function at the center where center staff will be present and supervising all children are not required to have a CBC.

D. CBC from Bureau. An early learning center may request a CBC from the Louisiana Bureau of Criminal Identification and Information (bureau) for any applicant, volunteer or staff member or independent contractor by submitting a request to the bureau that shall be made on a form prepared by the bureau, be signed by a responsible officer or official of the center, and include a statement signed by the person about whom the request is being made giving permission for such information to be released and the person's fingerprints in a form acceptable to the bureau.

1. A CBC shall be dated no earlier than 30 calendar days of the individual's hire date at the center.

2. If staff leave the employ of the center for more than 30 calendar days, a new satisfactory CBC shall be obtained prior to the individual being rehired or present on the early learning center premises.

a. For CBC purposes, staff who are working at a center at the end of a school year, are off during the summer as part of the center's scheduled yearly calendar dates of operation, and return to work at the same center for the beginning of the school year immediately following the summer they are off, are not considered to have left the employ of the center during the intervening summer.

3. A CBC is satisfactory for purposes of this Bulletin if it shows no arrests for any crime included in R.S. 15:587.1(C), or if an arrest is shown on the CBC for any excludable offense, the CBC or documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction. A plea of guilty or nolo contendere shall be deemed to be a conviction.

E. Certified Copy of Individual's CBC. If an applicant has previously obtained a certified copy of his/her CBC from the bureau, it shall be accepted for a period of one year from the date of issuance by the bureau. Prior to the one year expiration of the CBC, a new fingerprint based satisfactory CBC shall be obtained by the center in order for the individual to continue employment or providing services at the center. If a new CBC is not obtained prior to the one year expiration of the certified copy of the CBC, the individual is no longer allowed on the early learning center premises until a new satisfactory CBC is obtained.

F. CBC Affidavits/Annual Letters for Department of Education and Local School District Staff

1. First Year. Prior to being present and working with children at an early learning center, Department of Education and local school district staff for whom the department or the local school district, respectively, has previously obtained a CBC may submit to centers an original, completed, signed and notarized, affidavit (CBC affidavit) in lieu of providing a CBC.

a. The affidavit shall be on a form prescribed by the Licensing Division and shall be signed by the state or local superintendent, or his/her designee.

b. The CBC affidavit shall be acceptable for the school year indicated on the affidavit and shall expire on July 31 following the end of the indicated school year.

c. The center shall have a copy of the CBC affidavit on-site at all times and available for inspection upon request by the Licensing Division.

2. Subsequent Years. For all subsequent school years following the first year, department and local school district staff shall present either a new CBC affidavit or an original,

completed and signed letter (annual CBC letter) from the state or local superintendent, or his/her designee, in a form prescribed by the Licensing Division. The center shall keep a copy of each annual CBC letter on file at the center. The annual CBC letter shall be acceptable for the school year indicated in the letter and shall expire on July 31 following the end of the indicated school year. An annual CBC letter is acceptable only if the following conditions are met:

a. the department or local school district staff person has remained employed by the department or the school district indicated in the original CBC affidavit on file at the center;

b. the center has maintained a copy of the original CBC affidavit on file; and

c. the annual CBC letter is presented on Department of Education or local school district letterhead, and is signed by the state or local superintendent, or his/her designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:631 (April 2015), effective July 1, 2015.

### **§1705. State Central Registry Disclosure Forms for Volunteers and Staff**

A. A completed state central registry disclosure form or a current determination from the DCFS indicating that the individual does not pose a risk to children, shall be obtained by the center for all volunteers and staff prior to an individual being present in or providing services to the center and the center shall have a copies of such forms on-site at all times and available for inspection upon request by the Licensing Division.

B. Any volunteer or staff member of an early learning center shall report on the state central registry disclosure form prior to being on the premises of the center, and shall update the report annually, at any time upon request by the Licensing Division.

C. If a current staff member receives notice of a justified (valid) finding of child abuse and/or neglect against him, he shall complete an updated state central registry disclosure form noting the existence of the justified (valid) finding. This updated form shall be submitted to the Licensing Division within 24 hours or no later than the next business day, or upon being on the child care premises, whichever is sooner. The staff member will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation from DCFS or shall be terminated immediately.

1. If the staff person will no longer be employed at the center, the center shall immediately submit to the Licensing Division a signed, dated statement noting the individual's name and termination date.

2. Immediately upon receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued employment, the staff person with the justified (valid) finding, when in the presence of children shall be directly supervised by a paid staff (employee) of the center. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with a child. The center shall submit a written statement to Licensing Division acknowledging that the staff person with the justified finding will not be left alone and unsupervised with a child or children pending the disposition by DCFS that the



staff person does not pose a risk to children. When the aforementioned conditions are met, the staff may be counted in child/staff ratio.

D. If DCFS finds the individual does pose a risk to children, the staff (employee/volunteer) shall be terminated immediately.

E. Any information received or knowledge acquired that a current or prospective volunteer or employee, has falsified a state central registry disclosure form shall be reported in writing to a Licensing Division as soon as possible, but no later than the close of business on the next business day.

F. Any state central registry disclosure form or finding by DCFS that a person poses no risk to children that is maintained in an early learning center file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and/or neglect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.41.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:632 (April 2015), effective July 1, 2015.

#### **§1707. Required Staff**

A. Director or Director Designee. Each center shall have a qualified director or qualified director designee.

1. The director or director designee shall be an on-site, full-time staff person at the center during the daytime hours of operation (prior to 9 p.m.).

2. The director or director designee shall be responsible for planning, managing, and controlling the center's daily activities, as well as responding to parental concerns and ensuring that minimum licensing requirements are met.

B. Staff-in-Charge. When the director or director designee is not on the premises due to a temporary absence or during nighttime care hours, there shall be an individual appointed as staff-in-charge.

1. The staff-in-charge shall be at least age 21.

2. The staff-in-charge shall have the authority to respond to emergencies, inspections, parental concerns, and have access to all required information.

C. Staff-in-Charge. When the director or director designee is not on the premises due to a temporary absence, or during nighttime care hours, there shall be an individual on-site appointed as the staff-in-charge.

1. The individual appointed as staff-in-charge shall be at least age 21.

2. The staff-in-charge shall have the authority to respond to emergencies, inspections, and parental concerns, and shall have access to all required information.

D. More than 42 Children in Care. When the number of children present at an early learning center exceeds 42, the duties of the director or director designee shall consist only of performing administrative duties or there shall be an individual present whose job duties consist solely of administrative duties and of ensuring that staff members working with children do not leave their classrooms to handle administrative duties.

E. Staff

1. Staff shall be age 18 or older.

2. A person age 17 may be included in the child to staff ratio if the person works under the direct supervision of an adult staff member.

3. In type I centers only, a person age 16 may be included in the child to staff ratios if the person works under the direct supervision of an adult staff member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015.

#### **§1709. Director Qualifications**

A. The director/director designee shall be at least 21 years of age.

B. The director/director designee shall have documentation of at least one of the following upon date of hire as director or director designee:

1. a bachelor's degree from an accredited college or university with at least 12 credit hours of child development or early childhood education or elementary education or a related field, and one year of experience in a licensed early learning center or comparable setting, subject to approval by the Licensing Division;

2. an associate of arts degree in child development or a closely related area, and one year of experience in a licensed early learning center, or comparable setting, subject to approval by the Licensing Division;

3. a national administrator credential and one year experience in a licensed early learning center, or comparable setting, plus 6 credit hours in child care, child development or early childhood or 90 clock hours of training in child care, child development or early childhood, subject to approval by the Licensing Division;

4. a child development associate credential (CDA) and one year of experience in a licensed early learning center, or comparable setting, subject to approval by the Licensing Division;

5. a diploma from a post-secondary technical early childhood education training program approved by the Board of Regents or correspondence course approved by the Licensing Division and one year of experience in a licensed early learning center, or comparable setting, subject to approval by the Licensing Division; or

6. three years of experience as a director or staff in a licensed early learning center, or comparable setting, subject to approval by the Licensing Division; plus 6 credit hours in child care, child development or early childhood education, or 90 clock hours of training approved by the Licensing Division. Up to 3 credit hours or 45 clock hours may be in management/administration education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015.

#### **§1711. Child to Staff Minimum Ratios**

A. Child to staff ratios are established to ensure the safety of all children.

B. Minimum child to staff ratios shall be met at all times.

1. There shall be a minimum of two staff members present at an early learning center when more than one child is present.

2. Only those staff members directly providing care, supervision or guidance to children shall be counted in the child to staff ratios.

C. The Licensing Division form noting required child to staff ratios shall be posted in each room included in the center's licensed capacity.

D. Minimum Child to Staff Ratios for Type II and Type III Centers

Ages of Children	Ratio
Infants under 1 year	5:1
1 year	7:1
2 years	11:1
3 years	13:1
4 years	15:1
5 years	19:1
6 years and up	23:1

E. Future Minimum Child to Staff Ratios for Two-Year-Olds in Type II and Type III Centers. If the Louisiana Child Care Assistance Program subsidy rate reaches the 75 percentile of the 2012 Louisiana market rate survey rate for weekday care for toddlers by December 1, 2015, the child to staff ratios for two-year-olds shall decrease to 10:1 as of July 1, 2016.

F. Minimum Child to Staff Ratios for Type I Centers

Ages of Children	Ratio
Infants under 1 year	6:1
1 year	8:1
2 years	12:1
3 years	14:1
4 years	16:1
5 years	20:1
6 years and up	25:1

G. Mixed Age Groups—Minimum Child to Staff Ratios

1. An average of the child to staff ratios may be applied to mixed age groups of children ages two, three, four and five.

2. Child to staff ratios for children under age two are excluded from averaging.

3. When a mixed age group includes children younger than age two, the age of the youngest child determines the child to staff ratio for the group.

4. An average may be applied to a mixed age group consisting only of children ages five and older.

H. Rest Time—Minimum Child to Staff Ratios

1. Sufficient staffing needed to satisfy child to staff ratios shall be present on the premises during rest time and available to assist as needed.

2. Children ages one and older may be grouped together at rest time with one staff member in each room supervising the resting children. If two rooms share a common doorway, one staff member may supervise the resting children in both rooms.

3. If the view of the staff supervising the children is obstructed by an object such as a low shelving unit, children shall be checked by sight by staff circulating among the resting children.

I. Walking To and From School. Minimum child to staff ratios shall be met when walking children to and from school.

J. Field Trips—Minimum Child to Staff Ratios

1. Minimum child to staff ratios, plus one additional adult, shall be met for all field trips.

2. An adult staff member from the center shall be present with each group of children.

3. At no time shall a child or group of children be left alone without an adult staff member present unless the child is supervised by the parent of the child or designated representative authorized in writing by the parent.

K. Non-vehicular Excursions—Minimum Child to Staff Ratios

1. Minimum child to staff ratio, plus one additional adult, shall be met for all non-vehicular excursions.

2. An adult staff member from the center shall be present with each group of children.

3. At no time shall a child or group of children be left alone without an adult staff member present unless the child is supervised by the child's parent or designated representative authorized in writing by the parent on the non-vehicular excursions.

L. Water Activities—Minimum Child to Staff Ratios

1. A minimum of two staff shall be present when children are engaged in water activities.

2. The following minimum child to staff ratios apply when children are engaged in water activities, excluding water play activities, unless the children are participating in swimming lessons with a certified water safety instructor.

Ages of Children	Ratio
Three years	20:2
Four years	25:2
Five years and up	30:2

3. The age of the youngest child determines the child to staff ratio when children in a group are of mixed ages.

M. Special Needs Children—Minimum Child to Staff Ratios. When the nature of a child with special health care needs or the number of children with special health care needs warrants added care, the center shall add sufficient staff as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015.

### §1713. Supervision

A. Children shall be supervised at all times in the center, on the playground, on field trips, on non-vehicular excursions, and during all water activities and water play activities.

B. Children shall not be left alone in any room, (except the restroom as indicated in Subsection G), outdoors, or in vehicles, even momentarily, without staff present.

C. A staff person shall be assigned to supervise specific children whose names and whereabouts that staff person shall know and with whom the staff person shall be physically present. Staff shall be able to state how many children are in their care at all times.

D. Individuals who do not serve a purpose related to the care of children or who hinder supervision of children in care shall not be present in the center.

E. While supervising a group of children, staff shall devote their time to supervising the children, meeting the needs of the children, and participating with them in their activities.

F. Staff duties that include cooking, housekeeping or administrative functions shall not interfere with the supervision of children.

G. Restrooms

1. Children who are developmentally able may be permitted to go to the restroom independently at an early learning center, provided that:

a. a staff member is in proximity to the children to ensure immediate intervention to safeguard a child from harm while in the restroom; and

b. individuals who are not staff members may not enter the center restroom area while in use by any child other than their own child.

2. A child age four and older may be permitted to go and return from the restroom without staff.

H. Play Yard. When children are at the play yard, the supervising staff member must be able to summon another adult staff member without leaving the children unsupervised.

I. Water Activities. Staff shall actively supervise children engaged in water activities and shall be able to see all parts of the swimming pool, including the bottom.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:634 (April 2015), effective July 1, 2015.

**§1715. Staff Records and Personnel Files**

A. Staff Members. Personnel files for each staff member shall be maintained at the center and shall include the following:

1. an application or staff information form containing the following information: name, date of birth, home address and phone number, training, work experience, educational background and hire date;

2. copy of a state or federal government issued photo identification;

3. upon termination or resignation of employment, the last date of employment and reason for leaving;

4. documentation of a fingerprint based satisfactory criminal background check; and

5. documentation of a current, completed state central registry disclosure form indicating no justified (valid) finding of abuse or neglect by the DCFS, or a current determination from the DCFS indicating that the individual does not pose a risk to children.

B. Records Retention. Staff records and personnel files shall be maintained for a minimum of three years from the date of termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015.

**§1717. Records for Independent Contractors and Student Trainees**

A. Independent Contractors. The following information shall be maintained for all independent contractors, including but not limited to therapeutic professionals, extracurricular personnel, contracted transportation drivers, Department of Education, Office of Early Childhood staff and local school district staff:

1. an information form that includes the person's name, address and phone number;

2. a list of duties performed while present at the center; and

3. documentation of a fingerprint based satisfactory criminal background check dated prior to the individual being present at the center or documentation of the paid, adult staff member not otherwise counted in child to staff ratios that accompanied the contractor at all times while the contractor was on the center premises, to include the date, contractor arrival and departure time, language stating that the contractor was accompanied by the staff member at all times while on the premises, and the signature of both the contractor and the accompanying staff member.

B. Student Trainees. The following information shall be maintained for all student trainees:

1. an application or information form with the student's name, date of birth, address and telephone number, name of the educational center and course instructor, and a job description that includes duties to be performed.

C. Records Retention. Records for independent contractors and student trainees shall be maintained for a minimum of three years from the date the contractor or student was last present at the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1), R.S. 17:407:40, and R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015.

**§1719. Orientation Training**

A. Within seven calendar days of date of hire, and prior to assuming sole responsibility for any children, each staff member shall receive orientation to the policies and practices of the center that at a minimum shall include:

1. child abuse identification and reporting;

2. emergency preparation;

3. licensing regulations; and

4. safe sleep practices.

B. Within 30 calendar days of date of hire, each staff member shall receive orientation to the additional policies and practices of the center that at a minimum shall include:

1. child development;

2. child guidance;

3. learning activities;

4. health and safety;

5. shaken baby prevention; and

6. CPR and first aid, as applicable.

C. All staff members responsible for transporting children shall receive additional orientation training in the following areas prior to assuming their transportation duties:

1. transportation regulations, including the modeling of how to properly conduct a vehicle passenger check and demonstration by staff to director on how to conduct a vehicle passenger check;

2. proper use of child safety restraints required by state law;

3. proper loading, unloading, and tracking of children as required by state law;

4. location of first aid supplies; and

5. emergency procedures for the vehicle, including actions to be taken in the event of accidents or breakdowns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015.

#### **§1721. Continuing Education**

A. Early learning centers shall provide opportunities for continuing education of staff members. The center staff of type II and type III centers, excluding foster grandparents, shall obtain a minimum of 12 clock hours of training annually in the topics found in §1719.A and B conducted by trainers approved by the Licensing Division. The Licensing Division shall keep a registry of approved trainers. The center staff of type I centers, excluding foster grandparents, shall obtain a minimum of 3 clock hours of training annually in the topics found in §1719.A and B. Beginning July 1, 2015, type I center staff shall obtain a minimum of 6 clock hours of such training annually. Beginning July 1, 2016, type I center staff shall obtain a minimum of 9 clock hours of such training annually. Beginning July 1, 2017, type I center staff shall obtain a minimum of 12 clock hours of such training annually.

B. These hours are in addition to the 3 hours required for health and safety in the *Louisiana Sanitary Code*, found at LAC 51:XXI.301.A.9.

C. Copies of certificates of completion or attendance records shall be maintained at the center and available for inspection by the Licensing Division upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015.

#### **§1723. CPR and First Aid Certifications**

A. Infant and child CPR. Fifty percent of staff members on the premises of a center and accessible to children, or at least four staff on the premises and accessible to children, whichever is less, shall have current certification in infant and child CPR.

B. Adult CPR. Fifty percent of staff members on the premises of a center and accessible to children, or at least four staff on the premises and accessible to children, whichever is less, shall have current certification in adult CPR, except for type I centers, which shall have at least one staff member on the premises and accessible to children trained in adult CPR if there is a child eight years or older on the premises. Beginning on July 1, 2016, type I centers shall have 50 percent of staff members on the premises of a center and accessible to children or at least four staff on the premises and accessible to children, whichever is less, certified in adult CPR.

C. Pediatric First Aid. Fifty percent of staff members on the premises of a center and accessible to children, or at least four staff on the premises and accessible to children, whichever is less, shall have current certification in pediatric first aid. Beginning on July 1, 2016, this Subsection shall apply type I centers.

D. Certification. A copy of the certification for each such staff member shall be on-site at all times and available for inspection by the Licensing Division.

E. First Responder. Staff members who maintain current certification as a first responder are considered to have current certification in CPR and pediatric first aid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015.

#### **§1725. Medication Management Training**

A. All staff members who administer medication shall have medication administration training.

B. Whether administering medication or not, each early learning center shall have at least two staff members trained in medication administration.

C. Such training shall be completed every two years with an approved child care health consultant.

D. A licensed practical nurse (LPN) or registered nurse (RN) with a valid nursing license shall be considered to have medication administration training.

E. Beginning on July 1, 2016, this Section shall apply to type I centers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015.

### **Chapter 19. Minimum Health, Safety, and Environment Requirements and Standards**

#### **§1901. General Safety Requirements**

A. Telephones and Emergency Numbers

1. A working phone capable of incoming and outgoing calls shall be readily available at the center at all times. Cellular phones are not acceptable for this purpose.

2. When a center has multiple buildings and a phone is not located in each building where children are present, the center shall establish and follow written procedures for securing emergency help. The written procedures shall be posted in each building.

3. Centers located in schools and churches shall have a phone within the licensed area.

4. Appropriate emergency numbers, including but not limited to numbers for the fire and police departments, nearby hospitals and medical centers, Louisiana Poison Control and Child Protective Services, and the physical address of the center, shall be prominently posted on or near each phone.

B. Physical Separation. An early learning center, except one located in a church or school, shall be physically separated from any other business or enterprise, thereby preventing unauthorized access to children in care.

C. Lighting. Areas used by children shall be lighted in such a way as to allow visual supervision of the children at all times.

D. End-of-Day Check. The entire center and play yard shall be checked after the last child departs to ensure that no child is left at the center and this check shall be documented. Documentation shall include date, time of visual check, and signature of the staff conducting the visual check.

E. Sex Offender Registry. An early learning center shall register with the Louisiana State Police sex offender registry at [www.lsp.org](http://www.lsp.org) to receive updates when a sex offender moves within two miles of the center.

F. Centers shall not permit any individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to the center.

G. The owner or director of an early learning center shall immediately notify law enforcement personnel and the Licensing Division if they have knowledge that a registered sex offender is on the premises of the center. The verbal report shall be followed by a written report to the Licensing Division within 24 hours.

H. All equipment used by children shall be maintained in a clean and safe condition and in good repair.

I. Moveable equipment shall be secured and supported so that it shall not fall or tip over.

J. Microwave ovens, bottle warming devices and crock pots are prohibited in areas accessible to children.

K. Items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils, shall be kept in a locked cabinet or other secure place that ensures they are inaccessible to children.

L. Plastic bags, when not in use, regardless of purpose or use, shall be made inaccessible to children.

M. Construction, remodeling, and alterations of structures shall be done in such a manner so as to prevent hazards or unsafe conditions, such as fumes, dust and safety hazards.

N. Strings and cords, including but not limited to those found on equipment, window coverings, televisions and radios, shall be inaccessible to children under age four.

O. First aid supplies shall be kept at the center and shall be easily accessible to employees but not accessible to children.

P. The center shall prohibit the use of alcohol and tobacco and the use or possession of illegal substances, unauthorized potentially toxic substances, fireworks and firearms, and pellet and BB guns on the center premises and notice to this effect shall be posted.

Q. The personal belongings of center staff members shall be inaccessible to children.

R. The center shall post a copy of the current "The Safety Box" newsletter issued by the Louisiana Office of the Attorney General and shall immediately remove from the early learning premises any items listed as recalled.

S. Lawn cutting services shall not occur while children are on the playground or outside the early learning center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015.

### **§1903. Physical Environment**

A. Exclusive Use of Space. Indoor and outdoor space shall be used exclusively by children in care and center staff during hours of operation.

1. Exceptions are allowed only for schools or churches regarding the shared use of kitchens, dining rooms, restrooms and outdoor space.

2. If a center is located in a school or church, the center shall have time designated for exclusive use of the outdoor play area.

B. Physical Separation. An early learning center, except one located in a church or school, shall be physically separated from any other business or enterprise, thereby preventing unauthorized access to children in care.

C. Indoor and outdoor areas shall be free of hazards.

D. Indoor Space

1. A minimum of 35 square feet of usable indoor space shall be available per child. The space shall not include toilet facilities, hallways, lofts, storage spaces, stairways, lockers, offices, storage or food preparation areas, rooms used exclusively for dining or sleeping, or rooms used exclusively for the care of ill children.

2. The maximum number of children in care at one time, whether on or off the premises, shall not exceed the capacity as specified on the current license, which shall be the lesser of the capacity determinations made by the Office of State Fire Marshall and the Office of Public Health.

3. Any room counted as play space shall be available for play for the duration of the hours of operation.

4. Indoor space shall include an area for dining, which may be in each classroom.

5. The number of children using a room shall be based on the 35 square feet per child requirement, except for dining, sleeping, and other non-routine activities such as film viewing and parties.

6. In rooms with cribs, there shall be adequate open floor play space available for crawling, walking, pulling up and playing that is free of routine care furniture.

7. An indoor area shall be maintained for the purpose of providing privacy for diapering, dressing and other personal care procedures for children beyond the usual diapering age.

#### **E. Outdoor Space**

1. A minimum of 75 square feet of outdoor play space per child using the play space at any one time shall be available.

2. The minimum outdoor play space shall be available for at least one third of the licensed capacity.

3. Outdoor play space shall be available through a direct exit from the center into the outdoor play space or shall be attached to the center in a manner that ensures children are continuously protected by a permanent fence or other permanent barrier while going to and from the center to the outdoor play space.

4. Children shall not enter or exit the center through the kitchen.

5. Outdoor play space shall be enclosed with a permanent fence or other permanent barrier in a manner that protects children from traffic hazards, prevents children from leaving the premises without proper supervision, and prevents contact with animals or unauthorized persons.

6. Crawlspace and mechanical, electrical, or other hazardous equipment shall be made inaccessible to children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:637 (April 2015), effective July 1, 2015.

### **§1905. Nighttime Care for Children**

A. All minimum standards for early learning centers apply to centers that care for children after 9 p.m. and prior to 5 a.m., and in which no individual child remains for more than 24 hours in one continuous day.

B. The following minimum standards also apply:

1. there shall be an employee on duty designated as staff-in-charge;

2. in addition to meeting all required staff to child ratios in §1711, there shall always be a minimum of two staff members present;

3. staff counted for purposes of meeting child to staff ratio shall be awake;

4. meals shall be served to children at ordinary meal times;

5. time for personal care routines and preparation for sleep, such as brushing teeth, washing hands and face, toileting and changing clothes shall be provided;

6. each child shall have a separate, age appropriate bed or cot with mat or mattress;

7. bunk beds are prohibited;

8. physical restraints shall not be used to confine children to bed; and

9. the center's entrance and drop off zones shall be well lighted during hours of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:637 (April 2015), effective July 1, 2015.

### **§1907. Furnishings and Equipment**

#### **A. High Chairs**

1. The high chair manufacturer's restraint device shall be used when children are sitting in a high chair.

2. Children who are either too small or too large to be restrained using the manufacturer's restraint device shall not be placed in a high chair.

#### **B. Eating Practices**

1. Developmentally appropriate seating shall be used.

2. Chairs and tables of suitable size shall be available for each child.

3. Feeding tables may be used at mealtimes, if children's feet are able to rest comfortably on a foot rest.

4. Feeding tables may also be used for occasional program activities that require a table surface for no longer than 30 minutes in one day in addition to mealtime minutes.

#### **C. Sleeping Arrangements**

1. Individual and appropriate sleeping arrangements shall be made available for each child age one and older.

2. Individual sleeping accommodations shall be assigned to a child on a permanent basis and labeled, unless the cots or mats are sanitized daily.

3. For programs serving children ages four and above only, individual and appropriate sleeping arrangements shall be made available for a child that requests a rest time.

#### **D. Bed Coverings**

1. A labeled sheet for covering the cot or mat and a labeled sheet or blanket for covering the child shall be provided by either the center or the parent, unless the cots or mats are covered with vinyl or another washable surface.

2. Sheets and coverings shall be changed immediately when soiled or wet.

3. Routine laundering shall occur at least weekly.

#### **E. Cribs**

1. A safety-approved crib shall be made available for each infant in accordance with the *Louisiana Sanitary Code* found at LAC 51:XXI.105.H.

2. Each crib shall meet U.S. Consumer Product Safety Commission requirements for full-size cribs as defined in 16 CFR 1219, or non-full-size cribs as defined in 16 CFR 1220.

3. Children are prohibited from sleeping in playpens or cribs with mesh sides.

4. Cribs shall be free of toys and other soft or loose bedding, including comforters, blankets, sheets, bumper

pads, pillows, stuffed animals and wedges when the child is in the crib.

#### **F. Prohibited items:**

1. infant walkers;

2. toy chests, storage bins and other equipment with attached lids;

3. latex balloons for children under age three;

4. trampolines; and

5. culverts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015), effective July 1, 2015.

### **§1909. Safe Sleep Practices**

A. Only one infant shall be placed in a crib.

B. All infants shall be placed on their backs for sleeping.

1. Written authorization from a physician is required for any other sleeping position.

2. Written notice of the specifically authorized sleeping position shall be posted on or near the crib.

C. Infants shall not be placed in positioning devices, unless the center has written authorization from a physician to use a positioning device.

D. Written authorization from a physician is required for a child to sleep in a car seat or other similar device and shall include the amount of time that the child is allowed to remain in said device.

E. "Back To Sleep" signs shall be posted in the room where infants sleep.

F. Infants who use pacifiers shall be offered their pacifier when they are placed to sleep, but it shall not be placed back in the mouth once the child is asleep.

G. Bibs shall not be worn by any child while asleep.

H. Nothing shall be placed over the head or face of an infant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015), effective July 1, 2015.

### **§1911. Care of Children**

A. Diapers shall be changed when wet or soiled.

B. Children shall be changed and cleaned immediately following a toileting accident.

C. Staff shall respond promptly to a request from a child for toileting assistance.

D. While awake, children shall not remain in a crib, baby bed, swing, high chair, carrier or playpen for more than 30 consecutive minutes.

E. Daily Reports for Infants. Written reports that include the liquid intake, food intake, disposition, bowel movements and eating and sleeping patterns shall be given to the parents of infants on a daily basis. Reports shall be kept current throughout the day.

F. Children shall not be held by a staff member when the staff member is removing a bottle from a warming device.

G. Pacifiers attached to strings or ribbons shall not be placed around the neck or attached to the clothing of a child.

H. Hot liquids shall not be consumed in the presence of children.

I. Staff members shall adhere to proper techniques for lifting a child.

J. Staff members shall not lift a child by one or both arms.

K. Staff and children shall wash their hands using soap at least at the following times: upon arrival at the center, before preparing or serving meals, before giving medication, after playing in water used by more than one person, after toileting, after helping a child use a toilet or changing diapers, after wiping noses or cleaning wounds, after handling pets and other animals, after playing in sandboxes, before eating meals or snacks, upon coming in from outdoors, after cleaning or handling garbage and anytime hands become soiled with body fluids, such as urine, saliva, blood or nasal discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015), effective July 1, 2015.

### **§1913. Water Activities**

A. The center shall obtain written parental authorization for a child to participate in any water activities or water play activities as those activities are defined in §103.

B. Children under age three shall not engage in water activities due to the risk of contamination and disease.

C. The use of saunas, spas or hot tubs is prohibited.

D. Swimming, wading and boating is prohibited in lakes, ponds and other similar bodies of water.

E. The center shall have written procedures describing the method staff shall use to account for children and ensure their safety while engaged in water activities.

F. When children use a pool or other body of water with a depth of more than 2 feet, a certified lifeguard shall be present and supervising the children and may be counted in the child to staff ratio.

1. For on-site water activities, the center shall have documentation of the current certification of the lifeguard.

2. For off-site water activities, the center shall have documentation of the current certification of the lifeguard, whether the lifeguard is furnished by the center or the off-site water location.

G. A center shall have at least two staff members who are responsible for supervising children in swimming or wading pools or in other water activities, whether on-site or off-site, who are certified in infant, child, and adult CPR and pediatric first aid and shall maintain documentation of such certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:639 (April 2015), effective July 1, 2015.

### **§1915. Health Services**

A. Observation. Upon arrival at the center, the physical condition of each child shall be observed for possible signs of illness, infections, bruises or injuries, and when something is observed, it shall be documented and such documentation shall include an explanation from the parent or child.

B. Reporting. Incidents, injuries, accidents, illnesses, and unusual behavior shall be documented and reported to the parent no later than when the child is released to the parent or authorized representative on the day of the occurrence.

C. Immediate Notification. The parent shall be immediately notified in the following circumstances:

1. blood not contained in an adhesive strip;
2. head or neck or eye injury;
3. human bite that breaks the skin;
4. animal bite;
5. impaled object;
6. broken or dislodged teeth;
7. allergic reaction skin changes (e.g. rash, spots, swelling, etc.);
8. unusual breathing;
9. symptoms of dehydration;
10. temperature reading over 101° oral, 102° rectal, or 100° axillary; or
11. injury or illness requiring professional medical attention.

D. The center shall not delay seeking care while attempting to contact a parent if emergency medical attention is required.

E. Information regarding the medical condition of a child may be posted in public view if the center obtains a signed and dated statement from the parent granting such permission.

F. Influenza Information. Centers shall provide each parent information concerning the influenza immunization by November first of each year. The Licensing Division shall provide information about influenza annually to each licensed center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:639 (April 2015), effective July 1, 2015.

### **§1917. Medication Administration**

A. Written Authorization. No medication or special medical procedure shall be administered to a child unless authorized in writing by the parent. Such authorization shall include:

1. name of child;
2. drug name and strength;
3. date(s) to be administered;
4. directions for use, including the route (oral, topical), dosage, frequency, time and schedule and special instructions, if any. It is not acceptable to note "as indicated on bottle"; and
5. signature of parent and date of signature.

#### **B. Required Container/Packaging**

1. For prescription medication to be administered at the center, the center shall maintain the original pharmacy container with the complete pharmacy label.

2. For non-prescription medication to be administered, the center shall maintain the original bottle packing for the medicine or a printed document from the manufacturer's website, which shall include the drug name and strength and clear directions for use.

C. All medication shall be sent to the center in its original container, shall not have an expired date, and shall be clearly labeled with the name of the child to ensure that medication is for individual use only.

D. If a non-prescription medication label reads "consult a physician," the early learning center shall also maintain a

written authorization from a licensed health care provider for the child to take the medicine.

E. Aerosol. All aerosol medications shall be delivered to the center in pre-measured dosages.

F. Topical. The center shall not apply topical ointments, sprays or creams without a written authorization signed and dated by the parent.

G. Self-Administration. Children shall not administer their own medications without written authorization from the parent and such children shall administer medication in the presence of a staff person.

H. Records. Medication administration records shall be maintained for all children regardless of who administers the medication. Records shall include the following:

1. name of the child and medication name and dosage administered;
2. date and time medication administered;
3. documentation of telephone contact with parent prior to giving "as needed" medication;
4. signature of person administering medication or witnessing the child administering own medication;
5. signature of person completing the form; and
6. when a parent administers medication to his/her own child on center premises, the medication administration record shall be documented by either the parent or a staff member.

I. Authorization for "as needed" prescription and non-prescription medication shall be updated as necessary or at least every six months by the parent, and shall include circumstances for administering "as needed" medication and any applicable special instructions.

J. Medical Procedures. Children that require medical procedures such as tube feeding shall have specific instructions from a health care provider as part of the overall care plan for the child.

1. Administration of feedings or medications through a tube-feeding apparatus shall be performed by a staff member trained and authorized by the parent or individual designated by the parent.

2. Parental authorization and training shall be documented and shall include the name of child, date of training, name of staff trained, signature of staff trained, and signature of parent.

3. Documentation of feedings and medications administered shall include the name of child, date, time, what was administered, and signature of administering staff member.

#### K. Emergency Medications

1. Children who require emergency medications, such as an EpiPen or Benadryl, shall have a written plan of action that shall be updated as changes occur or at least every six months, and shall include:

- a. method of administration;
  - b. symptoms that indicate the need for the medication;
  - c. actions to take once symptoms occur;
  - d. description of how to use the medication; and
  - e. signature of parent and date of signature.
2. Medication administration records for emergency medication shall be maintained and include the following:
- a. symptoms that indicated the need for the medication;

- b. actions taken once symptoms occurred;
- c. description of how medication was administered;
- d. signature of administering staff member; and
- e. phone contact with the parent after administering emergency medication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:639 (April 2015), effective July 1, 2015.

### §1919. Food Service and Nutrition

A. All meals and snacks provided by the center, and their preparation, service and storage, shall meet the requirements for meals of the U.S. Department of Agriculture (USDA) Child and Adult Care Food Program (CACFP) and 7 CFR 226.20 and the *Louisiana Sanitary Code*, Title 51, Part XXIII, found at LAC 51:XXXIII. For the current CACFP meal patterns, contact the Louisiana Department of Education, Division of Nutrition Support.

B. The weekly menu shall:

1. be planned for each day of the week and list the specific food items served;
2. be prominently posted by the first day of each week and remain posted throughout the week; and
3. have substitutions or additions posted on or near the menu.

C. Information regarding food allergies and special diets of children shall be posted in the food preparation area with special care taken to ensure that individual names of children are not in public view. If a parent chooses to allow the center to post the child's name and allergy information in public view, the center shall obtain a signed and dated authorization from the parent.

D. A minimum of a breakfast or morning snack, lunch, and afternoon snack shall be served to children, and meals and snacks shall be served not more than three hours apart.

1. Centers who do not serve breakfast shall have nutritious food available for children who arrive in the morning without having eaten breakfast.

2. Children under age four shall not have foods that are implicated in choking incidents. Examples of these foods include, but are not limited to: whole hot dogs, hot dogs sliced in rounds, raw carrot rounds, whole grapes, hard candy, nuts, seeds, raw peas, hard pretzels, chips, peanuts, popcorn, marshmallows, spoonful of peanut butter, and chunks of meat larger than what can be swallowed whole.

3. Children shall be allowed a reasonable time to eat each meal and snack. Children shall not be forced to finish all their food.

4. Food shall be given to children on individual plates, napkins, paper towels or in cups, as appropriate.

5. Drinking water shall be readily available indoors and outdoors to children at all times. Water shall be given to infants only with written instructions from parents or a physician.

E. Parents shall be allowed to provide breast milk.

F. Centers may allow parents to bring food into the center.

G. Parents of all children in a class with a child with allergies shall be advised to avoid any known allergies in class treats or food brought into the center.

H. Infants that cannot hold a bottle shall be held while being bottle-fed. A child shall not be placed lying down on a



mat or otherwise with a bottle, sippy cup, etc. A bottle shall not be propped at any time.

I. Microwave ovens shall not be used for warming bottles or infant food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(4).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:640 (April 2015), effective July 1, 2015.

## **§1921. Emergency Preparedness and Evacuation**

### **Planning**

A. Emergency and Evacuation Plan. The director shall consult with appropriate state and local authorities and shall establish and follow a written multi-hazard emergency and evacuation plan to protect children in the event of emergencies that at a minimum shall:

1. address any potential disaster related to the area in which the center is located;
2. include procedures for sheltering in place, lockdown and evacuation to a pre-determined site for potential threats to the safety, health and well-being of children in care;
3. include specific procedures for handling infants through two year olds;
4. include specific procedures for handling children with special needs, including the evacuation and transportation of children in wheelchairs;
5. include a system to account for all children;
6. include a system, and a back-up system, for contacting parents and authorized third party release caretakers;
7. include a system to reunite children and parents following an emergency;
8. include procedures for providing information about the emergency plan to parents at the time of enrollment and when changes occur;
9. be reviewed annually for accuracy and updated as changes occur; and
10. be reviewed with all staff at least once per year.

B. Individualized Emergency Plan. An individualized emergency plan shall be in place for each child with special needs and shall include medical contact information and additional supplies and equipment as needed.

C. Evacuation Pack. The center shall have an evacuation pack, the location of which is known to all staff, that at a minimum shall contain:

1. a list of area emergency phone numbers;
2. a list of emergency contact information and emergency medical authorization for all enrolled children;
3. an emergency pick up form;
4. first aid supplies, hand sanitizer, wet wipes, and tissue;
5. diapers for children who are not toilet trained and plastic bags for diapers;
6. a battery powered flashlight and radio and batteries;
7. food for children under the age of 4, including infant food and formula; and
8. disposable cups and bottled water.

D. Records. A center shall maintain a copy of records, documents, and computer files necessary for its continued operation following an emergency in either a portable file or at an off-site location.

E. Fire Drills. Fires drills shall be conducted at least once per month at various times of the day necessary to include all children, in accordance with the *NFPA 101, 2012 Life Safety Code*, sections 17.71-17.13.3, and shall be documented.

F. Tornado Drills. Tornado drills shall be conducted at least once per month in the months of March, April, May, and June at various times of the day necessary to include all children and shall be documented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:641 (April 2015), effective July 1, 2015.

## **Chapter 21. Minimum Transportation Requirements and Standards**

### **§2101. General Requirements (Center-Provided, Parent-Provided or Contract Transportation)**

A. These general transportation rules apply to all transportation, whether for field trips or daily transportation.

1. Transportation arrangements shall conform to all state laws, as amended, including but not limited to those requiring the use of seat belts and child restraints.

2. Only one child shall be restrained in a single safety belt.

3. The number of persons in a vehicle shall not exceed the manufacturer's recommended capacity.

4. Children shall never be left unattended in a vehicle.

5. Each child shall enter and exit a vehicle from the curb side of the street or shall be escorted across the street.

6. Children shall not be transported more than 1 1/2 hours per trip on a routine basis.

7. Children shall not be transported to prevent the center from being over capacity.

8. Vehicles shall be maintained in good repair.

9. Each vehicle shall have evidence of a current safety inspection.

10. First aid supplies shall be located in each center vehicle or contracted vehicle. First aid supplies (at least one per trip) shall be available for each field trip when parents provide transportation.

11. Center emergency information shall be prominently posted in each vehicle and shall provide the name of the director and the name, phone number and address of the center.

12. The use or possession of alcohol or tobacco in any form, illegal substances, unauthorized toxic substances or firearms of any kind is prohibited in any vehicle used to transport children.

13. The center shall maintain a copy of a valid appropriate Louisiana or other state-issued driver's license for all individuals who drive vehicles used to transport children, whether said drivers are staff members or contracted drivers.

14. Centers shall maintain at all times current commercial liability insurance for the operation of center vehicles to ensure medical coverage for children in event of accident or injury. This policy shall extend coverage to any staff member who provides transportation for any child in the course and scope of his/her employment. The provider is responsible for payment of medical expenses of a child injured while in the center's care. Documentation shall

consist of the insurance policy or current binder that includes the name of the early learning center, the name of the insurance company, policy number, period of coverage and explanation of coverage. If transportation is provided by parents for field trips or transportation is provided by contract, whether daily or field trip, a copy of the current liability insurance shall be maintained on file at the center.

15. Centers using contract transportation shall maintain a copy of the written contract that includes an express provision stating that the contractor shall comply with all state laws and regulations, as amended, regarding motor vehicles, including but not limited to seat belts and child restraints.

16. Child Safety Alarm. In accordance with R.S. 32:295.3.1, a center may have a child safety alarm installed in any vehicle that has a seating capacity of six or more passengers in addition to the driver. This vehicle has to be owned or operated by the early learning center, its owner, operator, or employees and used to transport children to or from the early learning center. The child safety alarm is an ignition-based alarm system that voice prompts the driver to inspect the vehicle for children before exiting the vehicle and shall be installed by a person or business that is approved by the manufacturer of the child safety alarm. An owner or director of an early learning center who elects to have a child safety alarm installed in a vehicle owned or operated by the early learning center shall ensure that the child safety alarm is properly maintained and in good working order each time the vehicle is used for transporting children to or from an early learning center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:641 (April 2015), effective July 1, 2015.

### **§2103. Daily Transportation (Contract or Center Provided)**

A. Written authorization shall be obtained from a parent to transport a child on a regular basis. Such authorization shall include the name of the child, the type of transportation (to and from school, to and from home) and the names of individuals, schools, or other entities to whom the child may be released.

B. A staff person shall be present when a child is delivered to the center.

C. When children are picked up or dropped off at the center by a public or private school bus, staff shall be present to safely escort children to and from the bus.

#### **D. Vehicle Staff**

1. When transporting children under age four, the driver and one staff person shall be in each contracted or center provided vehicle at all times.

2. When transporting children age four and older, the driver plus one staff member shall be in each contracted or center provided vehicle at all times, unless the vehicle has a communication device which allows the driver to contact emergency personnel, in which case only the driver is needed.

#### **E. Master Transportation Log**

1. A copy of the current master transportation log shall be maintained on file at the center and shall include the names of the children, the pickup and drop off locations, and

the authorized persons to whom the children may be released. Documentation shall be maintained whether transportation is provided by the center or contracted.

2. Each driver or monitor, whether provided by the center or through a contractor, shall be provided a current master transportation log.

#### **F. Passenger Log**

1. A current passenger log for each trip shall be used to track children and staff during transportation.

2. The log shall be maintained on file at the center and a copy shall be provided to the driver or monitor.

3. The following shall be recorded in the passenger log:

- a. date the transportation is provided;
- b. name of the child;
- c. name of driver and staff members;
- d. pick up and drop off locations;
- e. time child was placed on the vehicle;
- f. time child was released and name of the person or entity to whom child was released; and
- g. signature of staff person completing the log.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:642 (April 2015), effective July 1, 2015.

### **§2105. Field Trips**

The center shall obtain and maintain a signed parental authorization for each field trip.

B. At least two staff, one of whom may be the driver, shall be in each vehicle, unless the vehicle has a communication device and the child to staff minimum ratio is met in the vehicle.

C. If transportation is provided by parents, a planned route shall be provided to each driver and a copy maintained in the center if any parent is transporting a child in addition to their own child.

D. Children shall be supervised during the boarding and exiting of vehicles by an adult who remains outside of the vehicle.

E. A written record for each field trip shall be maintained and shall include the following:

1. date, destination(s) and method of transportation;
2. names of all the children being transported in each vehicle;
3. names of the driver, staff members and other adults being transported in each vehicle;
4. names of other adults who joined the field trip at the destination(s) to assist with supervision of children; and
5. the presence of each child each time the children enter or exit the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:642 (April 2015), effective July 1, 2015.

### **§2107. Motor Vehicle Passenger Checks**

A. A visual passenger check of a vehicle is required to ensure that no child is left in the vehicle.

1. A staff person shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all enclosed spaces and recesses in the interior of the vehicle.

2. The staff member shall record the time of the visual passenger check and sign the log, indicating that no child was left on the vehicle.

B. For field trips, each vehicle shall have a visual passenger check and a face-to-name count conducted at all of the following times:

1. prior to leaving center for destination;
2. upon arrival at and prior to departure from each destination; and
3. upon return to center.

C. For daily transportation services, the vehicle shall have a visual passenger check made at the completion of each trip or route, prior to the staff member exiting the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:642 (April 2015), effective July 1, 2015.

#### **§2109. Non-Vehicular Excursions**

A. Written parental authorization shall be obtained for all non-vehicular excursions. Authorization shall include the name of the child, type and location of the activity, date and signature of the parent, and shall be updated at least annually.

B. Centers shall maintain records of all non-vehicular excursion activities to include the date, time, list of children, staff, and other adults, and type of activity.

C. Children shall not be taken on any vehicular or non-vehicular excursion to prevent the center from being over capacity. Children on excursions shall be included when determining whether the center is within its licensed capacity.

D. See §1711.K for child to staff minimum ratios applicable to non-vehicular excursions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:643 (April 2015), effective July 1, 2015.

Shan N. Davis  
Executive Director

1504#008

### **RULE**

#### **Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV.2313 and 2323)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2313, Elementary Program of Studies; and §2323, TOPS Honors Course Standards. The revisions update policy and provide requirements for honors courses that will qualify for the TOPS five-point GPA as required by Act 733 of the 2014 Regular Session of the Legislature.

## **Title 28**

### **EDUCATION**

#### **Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

#### **Chapter 23. Curriculum and Instruction**

##### **Subchapter A. Standards and Curricula**

##### **§2313. Elementary Program of Studies**

A. Elementary schools shall adhere to the curricular and time requirements established by the LDE and approved by BESE.

B. Schools and LEAs providing prekindergarten programs shall offer a curriculum that is developmentally appropriate and informal in nature with a balance of both teacher-directed and student-initiated activities.

NOTE: Refer to *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*.

B.1. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(26), R.S. 17:17.1, R.S. 17:24.8, R.S. 17:81, R.S. 17:154-154.1, and R.S. 17:261 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 33:2353 (November 2007), LR 36:1225 (June 2010), LR 37:1135 (April 2011), LR 39:2215 (August 2013), LR 39:3259 (December 2013), LR 41:643 (April 2015).

##### **§2323. TOPS Honors Course Standards**

A. TOPS honors courses meeting the standards listed in this Section shall qualify for the TOPS five-point GPA calculation beginning with students graduating in 2017-2018.

##### **1. English**

a. English III. Students shall complete an additional unit of instruction beyond the regular course. The unit of instruction shall include additional grade-level, complex texts and related writing and research tasks.

b. English IV. Students shall complete an additional unit of instruction beyond the regular course. The unit of instruction shall include additional grade-level, complex texts and related writing and research tasks.

##### **2. Mathematics**

a. Probability and Statistics. Students shall complete an additional unit of instruction beyond the regular course.

i. The unit of instruction shall exemplify the following shifts identified in the math standards:

(a). focus;

(b). coherence;

(c). rigor—conceptual understanding, procedural skill and fluency, and application.

ii. All standards marked with a “+” from the statistics and probability domain of the high school standards must be included in the course.

iii. Students must design and implement a research project requiring mathematical modeling.

b. Pre-Calculus. Students shall complete an additional unit of instruction beyond the regular course.

i. The unit of instruction shall exemplify the following shifts identified in the math standards:

(a). focus;

(b). coherence;  
(c). rigor—conceptual understanding, procedural skill and fluency, and application.

ii. All standards marked with a “+” from the number and quantity, algebra, functions, and geometry domains of the high school standards must be included in the course.

iii. Students must design and implement a research project requiring mathematical modeling.

c. Calculus. Students shall complete an additional unit of instruction beyond the regular course. The unit of instruction shall reflect the shifts identified in the math standards.

i. The unit of instruction shall exemplify the following shifts identified in the math standards:

(a). focus;  
(b). coherence;  
(c). rigor—conceptual understanding, procedural skill and fluency, and application.

### 3. Science

a. Biology II. Students shall complete two additional labs beyond the regular course.

b. Chemistry I. Students shall complete two additional labs beyond the regular course.

c. Chemistry II. Students shall complete two additional labs beyond the regular course.

d. Physics. Students shall complete two additional labs beyond the regular course.

e. Environmental science students shall complete two additional labs beyond the regular course.

### 4. Social Studies

a. U.S. History. Students shall complete two additional research projects beyond the regular course resulting in a written or performance-based product (e.g. formal debate, delivery of a speech, etc.).

b. Government. Students shall complete two additional research projects beyond the regular course resulting in a written or performance-based product (e.g. formal debate, delivery of a speech, etc.).

c. World History. Students shall complete two additional research projects beyond the regular course resulting in a written or performance-based product (e.g. formal debate, delivery of a speech, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:643 (April 2015).

Shan N. Davis  
Executive Director

1504#012

## RULE

### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.Chapters 2 and 6)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §233, The

Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements); §235, The Master's Degree Program Alternative Path to Certification (Minimum Requirements); §237, Certification-Only Program Alternative Path to Certification; §243, PRAXIS Exams and Scores and Section 504 Students; §605, Requirements to add Early Childhood (Grades PK-3); §607, Requirements to add Elementary (Grades 1-5); and §630, Requirements to add Mild/Moderate (1-5), (4-8) and (6-12)—Mandatory 7/1/2010. The revisions include two new Praxis elementary content exams (5001 and 5018). Praxis exams are regenerated on a five-year cycle or on an as-needed basis. The current elementary content exam will not be offered by the Educational Testing Service after August 31, 2015.

## Title 28

## EDUCATION

### Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

#### Chapter 2. Louisiana Educator Preparation Programs

#### Subchapter B. Alternate Teacher Preparation Programs

#### §233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements)

A. - B.4. ...

5. pass the Praxis content-specific examinations:

a. candidates for grades PK-3, pass elementary education;

b. candidates for grades 1-5 (regular education and mild/moderate), pass elementary education;

c. - e. ...

6. meet other non-course requirements established by college or university.

C. - I.3. ...

4. passed the Praxis specialty examination for the area(s) of certification:

NOTE: This test was required for admission.

a. grades PK-3—elementary education;

b. grades 1-5 (regular and special education)—elementary education;

I.4.c. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1790 (October 2006), amended LR 34:1387 (July 2008), LR 35:1477 (August 2009), LR 36:2261, 2263 (October 2010), LR 37:549, 558 (February 2011), LR 37:3208 (November 2011), LR 39:1460 (June 2013), LR 40:276 (February 2014), LR 41:644 (April 2015).

#### §235. The Master's Degree Program Alternative Path to Certification (Minimum Requirements)

A. - C.3. ...

4. pass the Praxis content-specific subject area examination:

a. candidates for PK-3 (regular education)—elementary education;

b. candidates for grades 1-5 (regular education and mild/moderate)—elementary education;

c. - e. ...

f. candidates for special education early interventionist birth to five years, significant disabilities 1-12, hearing impaired K-12, visual impairments/blind K-12—elementary education;

5. meet other non-course requirements established by the college/university.

**D. Program Requirements**

1. Knowledge of Learner and the Learning Environment (15 credit hours)

1.a. - 5.a. ...

**E. Certification Requirements.** Colleges/universities will submit signed statements to the Louisiana Department of Education indicating that the student completing the master's degree program alternative certification path met the following requirements:

1. passed core academic skills for educators components of Praxis (as required for admission);

2. completed all coursework in the master's degree alternate certification program with a 2.50 or higher grade point average (GPA);

3. passed the specialty examination (Praxis) for the area of certification (this test was required for admission):

a. grades PK-3 (regular education)—elementary education;

b. grades 1-5 (regular education and mild/moderate)—elementary education;

c. - e. ...

f. special education early interventionist (birth to five years), significant disabilities 1-12, hearing impaired K-12, and visual impairments/blind K-12—elementary education specialty examination;

4. - 5.b. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1792 (October 2006), amended LR 35:1480 (August 2009), LR 36:2262, 2263 (October 2010), LR 37:549 (February 2011), LR 37:3209 (November 2011), LR 39:1460 (June 2013), LR 40:276 (February 2014), LR 41:644 (April 2015).

**§237. Certification-Only Program Alternative Path to Certification**

A. - C.3.b. ...

4. Testing requirements:

a. pass the Praxis core academic skills for educators. Candidates who already possess a graduate degree will be exempted from this requirement. An ACT composite score of 22 or a SAT combined verbal/critical

reading and math score of 1030 may be used in lieu of Praxis core academic skills for educators exams;

b. pass the Praxis content-specific subject area examination:

i. candidates for PK-3 (regular education)—elementary education;

ii. candidates for grades 1-5—elementary education;

iii. candidates for grades 4-8—pass the middle school subject-specific examination for the content area(s) to be certified;

iv. candidates for grades 6-12—pass the secondary subject-specific examination for the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area;

v. candidates for all-level K-12 areas of art, dance, foreign language, health and physical education, and music—pass the subject-specific examination for the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program. Provider must develop a process to ensure that candidates demonstrate necessary performance skills in the all-level certification area;

vi. candidates for special education early interventionist birth to five years, significant disabilities 1-12, hearing impaired K-12, and visual impairments/blind K-12—elementary education.

D. - E.2.c. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1794 (October 2006), amended LR 35:1482 (August 2009), LR 36:2262, 2263 (October 2010), LR 37:550 (February 2011), LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 41:645 (April 2015).

**Subchapter D. Testing Required for Licensure Areas**

**§243. PRAXIS Exams and Scores**

A. - A.2. ...

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## B. Content and Pedagogy Requirements

Certification Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning and Teaching		
			PLT K-6 (#0622 or 5622)	PLT 5-9 (#0623 or 5623)	PLT 7-12 (#0624 or 5624)
Early Childhood PK-3	Elementary Content Knowledge (0014 or 5014) prior to 9/1/15	150	PLT: Early Childhood 0621 or 5621 (Score 157)		
Early Childhood PK-3	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018)	163	PLT: Early Childhood 0621 or 5621 (Score 157)		
	OR				
	Elementary Education: Multiple Subjects (5001) <ul style="list-style-type: none"><li>• Reading/Language Arts(5002)</li><li>• Mathematics (5003)</li><li>• Social Studies (5004)</li><li>• Science (5005)</li></ul>	157 157 155 159			
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001) <ul style="list-style-type: none"><li>• Reading/Language Arts(5002)</li><li>• Mathematics (5003)</li><li>• Social Studies (5004)</li><li>• Science (5005)</li></ul>	157 157 155 159			
Grades 1-5	Elementary Content Knowledge (0014 or 5014) prior to 9/1/15	150	160	---	---
Grades 1-5	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018)	163	160		
	OR				
	Elementary Education: Multiple Subjects (5001) <ul style="list-style-type: none"><li>• Reading/Language Arts(5002)</li><li>• Mathematics (5003)</li><li>• Social Studies (5004)</li><li>• Science (5005)</li></ul>	157 157 155 159			
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001) <ul style="list-style-type: none"><li>• Reading/Language Arts(5002)</li><li>• Mathematics (5003)</li><li>• Social Studies (5004)</li><li>• Science (5005)</li></ul>	157 157 155 159			
Grades 4-8 Mathematics	Middle School Mathematics (0069) Prior to 1/1/14 Middle School Mathematics (5169) Effective 1/1/14	148 165	---	160	---
Grades 4-8 Science	Middle School Science (0439) Prior to 6/8/14 Middle School Science (5440) Effective 6/8/14	150 150	---	160	---
Grades 4-8 Social Studies	Middle School Social Studies (0089 or 5089)	149	---	160	---
Grades 4-8 English/ Language Arts	Middle School English/Language Arts (0049 or 5049) Prior to 1/1/14	160	---	160	---
	Middle School English (5047) Effective 1/1/14	164			

C. - C.2. ...

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#### D. Special Education Areas

Area	Content Exam	Score	Pedagogy Requirement	Score
All Special Education Area(s)				
Early Interventionist	Elementary Content Knowledge prior to 9/1/15 (0014 or 5014)	150	Special Education: Core Knowledge and Applications (0354 or 5354) and Principles of Learning and Teaching: Early Childhood (0621 or 5621) Effective 1/1/12	145
	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018) OR Elementary Education: Multiple Subjects (5001)	163		157
	• Reading/Language Arts(5002)	157	Special Education: Early Childhood (0691) and Principles of Learning and Teaching: Early Childhood (0621 or 5621) Effective 1/1/14	159
	• Mathematics (5003)	157		157
	• Social Studies (5004)	155		
	• Science (5005)	159		
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)			
	• Reading/Language Arts(5002)	157		
	• Mathematics (5003)	157		
	• Social Studies (5004)	155		
	• Science (5005)	159		
Hearing Impaired	Elementary Content Knowledge prior to 9/1/15 (0014 or 5014)	150	Special Education: Core Knowledge and Applications (0354 or 5354) and Education of Deaf and Hard of Hearing Students (0271) Effective 11/1/11	145
	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018) OR Elementary Education: Multiple Subjects (5001)	163		160
	• Reading/Language Arts(5002)	157	Special Education: Core Knowledge and Applications (0354 or 5354) and Special Education: Education of Deaf and Hard of Hearing Students (0272 or 5272) Effective 1/1/14	145
	• Mathematics (5003)	157		160
	• Social Studies (5004)	155		
	• Science (5005)	159		
	•			
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)			
	• Reading/Language Arts(5002)	157		
	• Mathematics (5003)	157		
	• Social Studies (5004)	155		
	• Science (5005)	159		
Mild to Moderate Disabilities	ALL Candidates must pass a content area exam appropriate to certification level 1-5, 4-8, 6-12 (e.g., Elementary, or core subject-specific exams for middle or secondary grades)		Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543) and PLT specific to grade level (K-6, or 5-9 or 7-12).	153
Significant Disabilities	Elementary Content Knowledge prior to 9/1/15 (0014 or 5014)	150	Special Education: Core Knowledge and Severe to Profound Applications (0545 or 5545)	153
	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018) OR Elementary Education: Multiple Subjects (5001)	163		
	• Reading/Language Arts(5002)	157		
	• Mathematics (5003)	157		
	• Social Studies (5004)	155		
	• Science (5005)	159		
	•			
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)			
	• Reading/Language Arts(5002)	157		
	• Mathematics (5003)	157		
	• Social Studies (5004)	155		
	• Science (5005)	159		

Area	Content Exam	Score	Pedagogy Requirement	Score
Visual Impairments/ Blind	Elementary Content Knowledge prior to 9/1/15 (0014 or 5014)	150	Special Education: Core Content Knowledge and Applications (0354 or 5354) Effective 11/1/11	145
	Effective 9/1/15 to 8/31/17			
	Elementary Education: Content Knowledge (5018)	163	Special Education: Core Content Knowledge and Applications (0354 or 5354) and Special Education: Teaching Students with Visual Impairments (0282) Effective 1/1/14	145
	OR			163
	Elementary Education: Multiple Subjects (5001)			
	• Reading/Language Arts(5002)	157		
	• Mathematics (5003)	157		
	• Social Studies (5004)	155		
	• Science (5005)	159		
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)			
	• Reading/Language Arts(5002)	157		
	• Mathematics (5003)	157		
	• Social Studies (5004)	155		
	• Science (5005)	159		

E. ...

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015).

## Chapter 6. Endorsements to Existing Certificates

### Subchapter A. Regular Education Level and Area Endorsements

#### §605. Requirements to add Early Childhood (Grades PK-3)

A. - A.2. ...

B. Individuals holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary school certificate (e.g., 6-12, 7-12, 9-12), special education certificate (other than early interventionist), or an all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, music) must achieve the following:

1. passing score for Praxis—elementary education;
2. passing score for Praxis—principles of learning and teaching early childhood (0621 or 5621) or accumulate 12 credit hours of combined nursery school and kindergarten coursework.

C. Individuals holding a valid early interventionist certificate must achieve the following:

1. passing score for Praxis—elementary education;
2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1815 (October 2006), amended LR 37:883 (March 2011), repromulgated LR 37:1561 (June 2011), amended LR 37:3215 (November 2011), LR 38:44 (January 2012), LR 39:1464 (June 2013), LR 41:648 (April 2015).

#### §607. Requirements to add Elementary (Grades 1-5)

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3) must achieve the following:

1. passing score for Praxis—elementary education;
2. passing score for Praxis—principles of learning and teaching K-6 exam; and
3. nine semester hours of reading or passing score for Praxis—teaching reading exam (0204 or 5204).

B. Individuals holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

- a. passing score for Praxis—elementary education; or
- b. accumulate:
  - i. 12 semester hours of mathematics;
  - ii. 12 semester hours of science;
  - iii. 12 semester hours of English language arts; and
  - iv. 12 semester hours of social studies;
2. passing score for Praxis principles of learning and teaching K-6 exam; and
3. 9 semester hours of reading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1815 (October 2006), amended LR 38:44 (January 2012), LR 39:1464 (June 2013), LR 41:648 (April 2015).

### Subchapter B. Special Education Level and Area Endorsements

#### §630. Requirements to add Mild/Moderate (1-5), (4-8) and (6-12)—Mandatory 7/1/2010

A. - B.1.f. ...

2. passing score for Praxis exams—special education: core knowledge and mild to moderate applications (0543 or 5543), principles of learning and teaching (PLT): K-6, and elementary exam.

C. - E.2.b. ...



AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:1485 (August 2009), amended LR 37:553 (February 2011), LR 39:1464 (June 2013), LR 41:648 (April 2015).

Shan N. Davis  
Executive Director

1504#011

## RULE

### Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs  
Personally Identifiable Information  
and TOPS Core Curriculum  
(LAC 28:IV.113, 301, 502, 703, 803, 1703, 2103, and 2113)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its scholarship/grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking implements Acts 837, 566, 733, and 737 of the 2014 Regular Session of the Louisiana Legislature. (SG15159R)

## Title 28 EDUCATION

### Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

#### Chapter 1. Scope

##### §113. Personally Identifiable Information (PII)

A. LASFAC recognizes that personally identifiable information must be collected and maintained to determine whether a student meets the initial and continuing eligibility requirements for state and federal financial aid programs administered by LASFAC, and when required by law for use in preparing and submitting reports required by state and federal law.

B. LASFAC is required by the TOPS statute to inform “all students of the availability of the assistance...early enough in their schooling that a salutary motivational effect is possible.”

C. It is the intent and policy of LASFAC that:

1. LOSFA will collect and maintain only that PII necessary to fulfill LASFAC’s program responsibilities and duties, including but not limited to:

a. providing information to participating students beginning in the eighth grade that will guide and motivate students to prepare for and to achieve eligibility for financial aid programs to attend postsecondary education;

b. determining the initial eligibility of participating students for financial aid;

c. determining the continuing eligibility of students awarded financial aid;

d. making payments for students who have been awarded financial aid; and

e. submitting reports and assessments required by state or federal law regarding the effectiveness of the financial aid programs administered by LOSFA;

2. LOSFA will maintain and comply with policies and procedures to protect PII from disclosure to third parties/entities that have not been authorized to have access by:

a. state or federal law;

b. the parent or legal guardian of the person to whom the PII applies, if the person is not at least 18 years old or judicially emancipated or emancipated by marriage; or

c. the person to whom the PII applies, if the person is at least 18 years old or judicially emancipated or emancipated by marriage;

3. LOSFA will ensure that LOSFA employees will have access only to that PII that is necessary to perform their duties;

4. LOSFA will provide information to parents, legal guardians, students and schools regarding:

a. requirements for consenting to the release of PII to LOSFA;

b. possible college access advantages provided to students by consenting to the release of PII to LOSFA; and

c. adverse consequences of withholding consent for release of PII to LOSFA;

5. LOSFA will develop and use consent forms that inform students, parents, and legal guardians of:

a. purpose(s) for which the PII will be used;

b. who will have access to the PII;

c. how long the PII will be retained by LOSFA; and

d. how the PII will be destroyed at the end of the retention period;

6. LOSFA will destroy PII that is no longer necessary to fulfill LASFAC’s program responsibilities and duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 41:649 (April 2015).

#### Chapter 3. Definitions

##### §301. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

\* \* \*

*Articulated Courses for College Credit*—courses offered by the Louisiana School for Math, Science and the Arts for which eligible Louisiana colleges have agreed to give college credit if the student successfully completes the course and attends a participating college.

\* \* \*

*Honors Courses*—a rigorous high school course used to complete the TOPS core curriculum approved as an *honors course* for grading on a 5.00 scale by the Board of Elementary and Secondary Education and the Board of Regents.

\* \* \*

##### *Legal Guardian*—

a. an adult appointed by a court of competent jurisdiction to have custody and care of a minor, and who demonstrates the requirement to provide the primary support for such minor. Also referred to as a *court ordered custodian*;

b. for the purposes of consenting to the collection and disclosure of personally identifying information, the student's parent, legal guardian, or other person responsible for the student.

\* \* \*

*Personally Identifiable Information or PII*—personal information about an individual that can be used on its own or with other information to identify, contact, or locate a single individual.

\* \* \*

*Skill and Occupational Training*—

a. any and all certificate, diploma, associate of applied technology, and associate of applied science programs offered by eligible colleges/universities;

b. any coordinated and comprehensive course of study offered by eligible colleges/universities which qualifies a student upon completion to sit for testing leading to and/or meeting national and/or state professional/occupational licensure and/or certification requirements; and

c. any training leading to an industry-based certification, a certificate of applied science or a certificate of technical sciences approved by the Workforce Investment Council offered by a provider recognized by the Louisiana Workforce Commission.

\* \* \*

*Talented Course*—a course developed and provided to fulfill an individualized education program for a student who has been deemed to be gifted pursuant to R.S. 17:1941 et seq., as implemented in state Board of Elementary and Secondary Education policy.

\* \* \*

*TOPS Cumulative High School Grade Point Average*—

a. - e. ...

f. effective for high school graduates beginning with academic year (high school) 2017-2018, the TOPS cumulative grade point average will be calculated by dividing the total number of quality points earned on the courses used to complete the TOPS core curriculum by the total units earned to complete the TOPS core curriculum.

Quality points equal the credit for the course multiplied by the value assigned to the letter grade.

The quality points for courses used to complete the TOPS core curriculum, except for Advanced Placement, International Baccalaureate, Gifted and Talented, Honors, Articulated Courses for College Credit and Dual Enrollment courses approved by the Board of Regents and the State Board of Elementary and Secondary Education, used to complete the TOPS core curriculum on a 5.00 scale, shall be converted to a 4.00 scale utilizing the following formula:

An "A" shall equal 4.0.  
A "B" shall equal 3.0.  
A "C" shall equal 2.0.  
A "D" shall equal 1.0.  
An "F" shall equal zero (0.0).

The quality points for Advanced Placement, International Baccalaureate, Gifted and Talented, Honors, Articulated Courses for College Credit and Dual Enrollment courses approved by the Board of Regents and the State Board of Elementary and Secondary Education used to complete the TOPS core curriculum shall be converted to a 5.00 scale as follows:

An "A" shall equal 5.0.

A "B" shall equal 4.0.  
A "C" shall equal 3.0.  
A "D" shall equal 2.0.  
An "F" shall equal zero (0.0).

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

**HISTORICAL NOTE:** Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:649 (April 2015).

**Chapter 5. Applications, Federal Grant Aid and ACT Test**

**§502. Consent Required to Process Applications and Deadlines**

A. To process an application for financial aid or to allow participation in LOSFA programs to provide guidance and motivation in preparing for and achieving eligibility for financial aid programs, certain student personally identifiable information (PII) must be provided to LASFAC. The PII required depends on the financial aid program for which the student is applying. If the required PII is not provided, an applicant will not be determined to be eligible.

B. The submission of an application for a financial aid program administered by LASFAC or for participation in LOSFA programs to provide guidance and motivation in preparing for and achieving eligibility for financial aid programs constitutes consent for the student's school to collect and disclose the student's PII to LOSFA, and for LOSFA to collect, maintain, and use the PII for the program in which the student has indicated a desire to participate, if submitted by:

1. a student who is judicially emancipated, or emancipated by marriage, or who is 18 years old or older; or
2. a parent or legal guardian on behalf of a student who is not at least 18 years old and who is not emancipated.

C. To grant consent for a public school to collect the student's PII and disclose it to LOSFA, the student, parent or legal guardian, as applicable, must sign a consent form provided by the public high school that includes the following:

1. purpose(s) for which the PII will be used;
2. who will have access to the PII;
3. how long the PII will be retained by LOSFA; and

4. how the PII will be destroyed at the end of the retention period.

D. Submission of one of the following constitutes consent for LOSFA to collect, maintain, and use the PII included in the submission for the purposes of determining eligibility for financial aid:

1. free application for federal student aid (FAFSA) naming LOSFA as a recipient;
2. ACT score naming LOSFA as a recipient;
3. ACT WorkKeys score naming LOSFA as a recipient;
4. SAT score naming LOSFA as a recipient;
5. TOPS on-line application.

E. The required information for consideration for initial eligibility for a TOPS award, includes, but is not limited to, all the following student information:

1. full name;
2. date of birth;
3. Social Security number;
4. student high school transcript data, including but not limited to:
  - a. month and year of high school graduation;
  - b. the course code for each course completed;
  - c. the grade for each course completed;
  - d. the term and year each course is completed;
  - e. designation of each advanced placement, International Baccalaureate®, honors, gifted and talented, articulated course for college credit, and dual enrollment course;
  - f. the grading scale for each course reported; and
  - g. the high school attended for each course reported;
5. ACT, ACT WorkKeys, and/or SAT scores;
6. FAFSA data;
7. college transcript data as set forth in Section 1903.

F. The required information for consideration for eligibility for other awards, grants and programs may include, but is not limited to, the following student information:

1. the information set forth in Subsection E above;
2. student disciplinary data;
3. family income;
4. dual enrollment high school and college transcript data;
5. foster care status;
6. ACT plan score;
7. school lunch program status;
8. standardized test scores;
9. grade point average for each semester and cumulative grade point average.

G. Deadlines to Provide Consent to a Public School for the Release of a Student's PII to LOSFA

1. For participation in LOSFA's program for guidance and motivation to prepare for and to achieve eligibility for financial aid programs, the parent or legal guardian, as applicable, should provide consent by the eighth grade.

2. For eligibility for payment of a TOPS award for the fall semester immediately following high school graduation, the student, parent or legal guardian, as applicable, should provide consent no later than January 15 of the year of graduation.

3. The final date for receipt of consent is the January 15 immediately following the final deadline for receipt of the student's FAFSA or on-line application. See Section 505 below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 41:650 (April 2015).

## **Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards**

### **§703. Establishing Eligibility**

A. - A.5.a.i.(e). ...

\* \* \*

(f). beginning with the graduates of academic year (high school) 2013-14 through 2016-2017, at the time of high school graduation, an applicant must have successfully completed 19 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows;

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (1 unit) or Applied Algebra 1A and 1B (2 units)
1	Algebra II
2	Geometry, Calculus, Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III, Advanced Math – Pre-Calculus, Advanced Math – Functions and Statistics, Integrated Mathematics III
1	Biology
1	Chemistry
2	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
2	World History, Western Civilization, World Geography or History of Religion
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit)
1	Fine Arts Survey; (or substitute one unit of a performance course in music, dance, or theater; or substitute one unit of a visual art course; or substitute one unit of a studio art course; or substitute one unit of drafting)
2	Foreign Language, both units in the same language

(g). beginning with the graduates of academic year (high school) 2017-2018, at the time of high school graduation, an applicant must have successfully completed 19 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows;

Units	Course
English - 4 Units	
1	English I
1	English II
1	English III, AP English Language Arts and Composition, or IB English III (Language A or Literature and Performance)
1	English IV, AP English Literature and Composition, or IB English IV (Language A or Literature and Performance)
Math - 4 Units	
1	Algebra I
1	Geometry
1	Algebra II
1	One unit from: Algebra III; Advanced Math- Functions and Statistics, Advanced Math- Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL
Science - 4 Units	
1	Biology I
1	Chemistry I
2	Two units from: Earth Science; Environmental Science; Physical Science; Agriscience I and Agriscience II (one unit combined); Chemistry II or AP Chemistry or IB Chemistry II; AP Environmental Science or IB Environmental Systems; Physics I, AP Physics B, or IB Physics I; AP Physics C: Electricity and Magnetism, AP Physics C: Mechanics, or IB Physics II; AP Physics I and AP Physics II; Biology II or AP Biology or IB Biology II
Social Studies - 4 Units	
1	U.S. History or AP U.S. History or IB U.S. History
1	Civics, Government, AP US Government and Politics: Comparative, or AP US Government and Politics: United States
2	Two units from: Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics Economics, AP Macroeconomics AP Microeconomics
Foreign Language - 2 Units	
2	Foreign Language, both units in the same language, which may include: AP Chinese Language and Culture, AP French Language and Culture, AP German Language and Culture, AP Italian Language and Culture, AP Japanese Language and Culture, AP Latin, AP Spanish Language and Culture, French IV IB, French V IB, Spanish IV IB, and Spanish V IB

Units	Course
Art - 1 Unit	
1	One unit of Art from: Performance course in Music, Dance, or Theatre; Fine Arts Survey; Arts I, II, III, and IV; Talented Art I, II, III, and IV; Talented Music I, II, III, and IV; Talented Theater Arts I, II, III, and IV; Speech III and IV (one unit combined); AP Art History; AP Studio Art: 2-D Design; AP Studio Art: 3-D Design; AP Studio Art: Drawing; AP Music Theory; Film Study I IB; Film Study II IB; Music I IB; Music II IB; Art Design III IB; Art Design IV IB; Theatre I IB; or Drafting
NOTE: AP = Advanced Placement IB = International Baccalaureate	

ii.(a). - ii.(d). . . .  
\* \* \*

(e). For students graduating in academic year (high school) 2017-2018 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III
Any listed core course or its equivalent.	Any core curriculum course taken by a student who has been deemed to be gifted and talented pursuant to R.S. 17:1941 et seq., as implemented in State Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted and talented course and shall fulfill the core curriculum requirement in its given subject area.

(f). For students graduating in academic year (high school) 2017-2018 and after, the courses listed in the tables below have been approved by the Board of Regents and the state Board of Elementary and Secondary Education to be converted to a 5.00 scale when used to complete the core curriculum, and shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a.

(i). Advanced Placement Courses

TOPS Core Course	Advanced Placement
Art	AP Art History AP Studio Art: 2-D Design AP Studio Art: 3-D Design AP Studio Art: Drawing
Biology II	AP Biology

TOPS Core Course	Advanced Placement
Calculus	AP Calculus AB AP Calculus BC
Chemistry II	AP Chemistry
Chinese	AP Chinese Language and Culture
Economics	AP Macroeconomics AP Microeconomics
English III	AP English Language and Composition
English IV	AP English Literature and Composition
Environmental Science	AP Environmental Science
European History	AP European History
Fine Arts Survey	AP Music Theory
French	AP French Language and Culture
German	AP German Language and Culture
Italian	AP Italian Language and Culture
Japanese	AP Japanese Language and Culture
Latin	AP Latin
Physics I	AP Physics I: Algebra Based AP Physics II: Algebra Based AP Physics C: Electricity and Magnetism AP Physics C: Mechanics
Probability and Statistics	AP Statistics
Spanish	AP Spanish Language and Culture
US Government or Civics	AP U.S. Government and Politics: Comparative AP U.S. Government and Politics: United States
US History	AP U.S. History
World Geography	AP Human Geography
World History	AP World History

(ii). International Baccalaureate® Courses

TOPS Core Course	International Baccalaureate
Advanced Math–Pre Calculus	IB Math Studies (Math Methods)
Arabic	IB Language ab initio: Arabic IB Language B: Arabic
Art	IB Visual Arts
Biology II	IB Biology I IB Biology II
Calculus	IB Mathematics SL IB Mathematics HL
Chemistry II	IB Chemistry I IB Chemistry II
Chinese	IB Language ab initio: Chinese IB Language B: Chinese
Economics	IB Economics
English III	IB Literature IB Language and Literature IB Literature and Performance
English IV	IB Literature IB Language and Literature IB Literature and Performance
Environmental Science	IB Environmental Systems
French	IB Language ab initio: French IB Language B: French
German	IB Language ab initio: German IB Language B: German
Italian	IB Language ab initio: Italian IB Language B: Italian
Japanese	IB Language ab initio: Japanese IB Language B: Japanese
Latin	IB Classical Language
Music (Performance)	IB Music
Physics I	IB Physics I IB Physics II
Pre-Calculus	IB Math Studies (Math Methods)
Spanish	IB Language ab initio: Spanish IB Language B: Spanish
Theatre (Performance)	IB Film Study IB Theatre IB Dance
US History	IB History of the Americas I
World Geography	IB Geography

TOPS Core Course	International Baccalaureate
World History	IB History of the Americas II

(iii). Gifted and Talented Courses

TOPS Core Course	Gifted and Talented
Art	Art History Talented Visual Arts I Talented Visual Arts II Talented Visual Arts III Talented Visual Arts IV
Biology II	Biology II
Calculus	Calculus I Calculus II
Chemistry I	Chemistry I
Chemistry II	Chemistry II
Chinese	Chinese III Chinese IV
Economics	Economics
English III	English III
English IV	English IV
Environmental Science	Environmental Science
European History	European History
French	French III French IV
German	German III German IV
Italian	Italian III Italian IV
Japanese	Japanese III Japanese IV
Latin	Latin III Latin IV
Music (Performance)	Talented Music I, II, III, IV Small Voice Ensemble II Choir: Intermediate Choir: Advanced Orchestra: Intermediate Orchestra: Advanced
Physics I	Physics
Spanish	Spanish III Spanish IV
Theatre (Performance)	Introduction to Film Studies Talented Theater I, II, III, IV
US Government or Civics	Government
US History	U.S. History
World Geography	World/Human Geography

(iv). Dual Enrollment Courses

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Advanced Math–Pre Calculus	Trigonometry	CMAT 1223
Advanced Math-Functions and Statistics	Introductory Statistics	CMAT 1303
Algebra III	College Algebra	CMAT 1213
Arabic	Elementary Arabic I Elementary Arabic II	CARB 1013/1014 CARB 1023/1024
Art	Art History I or II Art Structure/2-D Design Beginning Drawing	CART 2103/2113 CART 1113 CART 2203
Biology I	General Biology I General Biology I (Science Majors)	CBIO 1013 CBIO 1033

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Biology II	General Biology I General Biology I (Science Majors) General Biology II General Biology II (Science Majors)	CBIO 1013 CBIO 1033 CBIO 1023 CBIO 1043
Calculus	Applied Calculus Calculus I Calculus II	CMAT 2103 CMAT 2113-5 CMAT 2123-5
Chemistry I	General Chemistry Survey I Chemistry I Chemistry I (Science Majors)	CCEM 1013 CCEM 1103 CCEM 1123
Chemistry II	General, Organic and Biochemistry General Chemistry Survey I Chemistry I Chemistry I (Science Majors) Chemistry II Chemistry II (Science Majors)	CCEM 1003 CCEM 1013 CCEM 1103 CCEM 1123 CCEM 1113 CCEM 1133
Earth Science	Physical Geology Historical Geology	CGEO 1103 CGEO 1113
Economics	Economic Principles Macroeconomics Microeconomics	CECN 2113 CECN 2213 CECN 2223
English III	English Composition I English Composition II American Literature I American Literature II Major American Writers	CENL 1013 CENL 1023 CENL 2153 CENL 2163 CENL 2173
English IV	English Composition I English Composition II British Literature I British Literature II Major British Writers World Literature I World Literature II Major World Writers Introduction to Fiction Introduction to Literature Introduction to Poetry and/or Drama	CENL 1013 CENL 1023 CENL 2103 CENL 2113 CENL 2123 CENL 2203 CENL 2213 CENL 2223 CENL 2303 CENL 2323 CENL 2313
Environmental Science	Environmental Science	CEVS 1103
Fine Arts Survey	Exploring the Arts Introduction to Visual Arts Dance Appreciation Music Appreciation	CART 1013 CART 1023 CDNC 1013 CMUS 1013
French	Elementary French I Elementary French II Intermediate French I Intermediate French II	CFRN 1013/1014 CFRN 1023/1024 CFRN 2013/2014 CFRN 2023
German	Elementary German I Elementary German II Intermediate German I Intermediate German II	CGRM 1013/1014 CGRM 1023/1024 CGRM 2013 CGRM 2023
History Of Religion	World Religions	CPHL 2213
Latin	Elementary Latin I Elementary Latin II Intermediate Latin I Intermediate Latin II	CLTN 1013/1014 CLTN 1023/1024 CLTN 2013 CLTN 2023
Physical Science	Physical Science I	CPHY 1023
Physics I	Physics I (Algebra/Trigonometry Based) Physics I (Lecture and Lab) Physics I (Calculus Based)	CPHY 2113 CPHY 2114 CPHY 2133
Pre-Calculus	Algebra and Trigonometry	CMAT 1233
Probability and Statistics	Introductory Statistics	CMAT 1303

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Spanish	Elementary Spanish I Elementary Spanish II Intermediate Spanish I Intermediate Spanish II	CSPN 1013/1014 CSPN 1023/1024 CSPN 2013/2014 CSPN 2023
Theatre (Performance)	Acting I or II Introduction to Theatre	CTHE 2103/2113 CTHE 1013
US Government or Civics	Introduction to American Government Introduction to State and Local Government Introduction to Comparative Government	CPOL 2013 CPOL 2113 CPOL 2213
US History	American History I or II	CHIS 2013/2023
Western Civilization	Western Civilization I or II	CHIS 1013/1023
World Geography	World Regional Geography	CGRG 2113
World History	World Civilization I or II	CHIS 1113/1123

A.5.a.iii.(a). - J.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

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## Chapter 8. TOPS-Tech Award

### §803. Establishing Eligibility

A. - A.6.a.i. ...

ii. for students graduating in the 2000-2001 school year through the 2012-2013 school year, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum;

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute 1 unit of Business English

Core Curriculum—TOPS-Tech Award	
Units	Course
1	Algebra I; or both Algebra I, Part I and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
1	Chemistry or Applied Chemistry
1	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization, or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
Remaining Core Courses Shall Be Selected from One of the Following Options:	
<b>Option 1—Total of 17 units</b>	
1	Fine Arts Survey or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	
<b>Option 2—Total of 19 Units</b>	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

iii. for students graduating through the 2001-2002 school year, the TOPS-Tech core curriculum as follows;

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (1 unit) or Applied Algebra IA and 1B (2 units)
1	Algebra II
1	Geometry or Applied Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II or Physics for Technology or Agriscience I and II (both for 1 unit)

Core Curriculum—TOPS-Tech Award	
Units	Course
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute 2 units of performance courses in music, dance or theater; or 2 units of studio art or 2 units of visual art courses; or 1 elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language. (1 unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (2 units).
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least 1/2 unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least 1/2 unit of an elective from among the other subjects listed in this core curriculum)

iv. for students graduating in the 2013-2014 school year and thereafter, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute 1 unit of Business English
1	Algebra I; or both Algebra I, Part I and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
2	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, or Chemistry or Applied Chemistry, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization, or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
Remaining Core Courses Shall Be Selected from One of the Following Options:	
<b>Option 1—Total of 17 units</b>	
1	Fine Arts Survey or drafting (one unit) or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II

Core Curriculum—TOPS-Tech Award	
Units	Course
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	
Option 2—Total of 19 Units	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

A.6.b. - B.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007), LR 35:230 (February 2009), LR 36:491 (March 2010), LR 36:2270 (October 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 41:654 (April 2015).

**Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools**

**§1703. High School's Certification of Student Achievement**

A. - B.2.b.viii. ...

c. Commencing with the 2014-2015 academic year (high school), for each student for whom the school has been granted consent to collect and disclose PII to LOSFA, Louisiana public high schools as defined in §1703.A.1 above shall collect the following reportable data elements for each year of attendance for those students in the ninth through twelfth grades:

i. verification that the school has been granted written consent to collect and disclose the student's PII to LOSFA from the student's parent or legal guardian, if the student is not at least 18 or judicially emancipated; or by the student, if the student is at least 18 or judicially emancipated;

ii. student's full name, date of birth, and Social Security number;

iii. transcript data, including, but not limited to:

- (a). student's BESE identification number;
- (b). month and year of high school graduation;
- (c). the course code for each course completed;
- (d). the grade for each course completed;
- (e). the term and year each course is completed;

(f). designation of each advanced placement, International Baccalaureate®, honors, gifted and talented, articulated course for college credit, and dual enrollment course;

(g). the grading scale for each course reported; and

(h). the high school attended for each course reported.

d. Commencing with the 2014-15 academic year (high school), certification from all approved non-public Louisiana high schools as defined in §1703.A.2 and 3 above shall contain, but is not limited to, the following reportable data elements:

i. student's full name, date of birth, and Social Security number;

ii. transcript data, including, but not limited to:

- (a). month and year of high school graduation;
- (b). the course code for each course completed;
- (c). the grade for each course completed;
- (d). the term and year each course is completed;
- (e). designation of each advanced placement,

International Baccalaureate®, honors, gifted and talented, articulated course for college credit, and dual enrollment course;

(f). the grading scale for each course reported; and

(g). the high school attended for each course reported.

B.3. - D.2.b. ...

3. commencing with the 2014-2015 academic year (high school), the submission of the required data by the high school headmaster or principal or designee of Louisiana public high schools as defined in §1703.A.1 above shall constitute a certification that:

a. the school has complied with the requirements of R.S. 17:3913.K to:

i. beginning in the eighth grade, annually at the beginning of each school year, provide a form to be signed by the parent or legal guardian of each student enrolled in the school, whereby the student's parent or legal guardian may provide consent or deny consent for the collection and disclosure of the student's personally identifiable information as follows:

- (a). full name;
- (b). date of birth;
- (c). Social Security number; and
- (d). transcript data, including, but not limited to:
  - (i). student's BESE identification number;
  - (ii). month and year of high school graduation;
  - (iii). the course code for each course completed;
  - (iv). the grade for each course completed;
  - (v). the term and year each course is completed;

(vi). designation of each advanced placement, International Baccalaureate®, honors, gifted and talented, articulated course for college credit, and dual enrollment course;

(vii). the grading scale for each course reported; and



(viii). the high school attended for each course reported;

ii. use a form provided by LOSFA or a form substantially similar to LOSFA's form that:

(a). provides notification of exactly what items of student information will be collected and that disclosure of the student information collected will be restricted to Louisiana postsecondary educational institutions and the Office of Student Financial Assistance to be used solely for the purpose of processing applications for admission and for state and federal financial aid;

(b). requires acknowledgment that the failure to provide written consent for the collection and disclosure of the student's information may result in delays or may prevent successful application for admission to a postsecondary educational institution and for state and federal student financial aid;

iii. collect the personally identifiable information for each student for whom consent was provided;

4. commencing with the 2003 academic year (high school), if a student is determined to be eligible for a TOPS award based on data that is incorrect and the student was in fact ineligible for a TOPS award or the level awarded, the high school must reimburse LASFAC for the amount paid in excess of what the student was eligible for.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:1998 (September 2000), LR 26:2269 (October 2000), repromulgated LR 27:1863 (November 2001), amended LR 29:880 (June 2003), LR 30:1165 (June 2004), LR 40:57 (January 2014), LR 41:656 (April 2015).

## **Chapter 21. Miscellaneous Provisions and Exceptions**

### **§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements**

A. - D.3. ...

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS, TOPS-Tech, TOPS Teacher, the Rockefeller State Wildlife Scholarship or the Louisiana GO Youth Challenge Program because of failure to meet the initial or continuous enrollment requirements may request reinstatement in that program based on one or more of the following exceptions.

#### **1. Parental Leave**

a. Definition. The student/recipient is pregnant or caring for a newborn or newly adopted child less than one year of age.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts; and

ii. a written statement from a doctor of medicine who is legally authorized to practice certifying the date of diagnosis of pregnancy and the anticipated delivery date or

the actual birth date or a copy of the hospital's certificate of live birth or a copy of the official birth certificate or equivalent official document or written documentation from the person or agency completing the adoption that confirms the adoption and date of adoption.

c. Maximum Length of Exception. Up to the equivalent of one academic year (college) per pregnancy.

E.2. - G.5.b.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 41:657 (April 2015).

### **§2113. Revision of the Core Curricula**

A. LASFAC is authorized by law, subject to prior approval by BESE, to determine a high school level course to be equivalent to a course described in the core curricula or to authorize the name change of a core curricula course, including necessary changes to equivalencies and course names for advanced placement and International Baccalaureate® courses as prescribed by the College Board or the International Baccalaureate Foundation.

B. The determination of a course as equivalent to a course included in the definition of core curriculum shall be limited to those courses identified in the secondary programs of study contained in the *Louisiana Handbook for School Administrators* (LDE Bulletin 741).

C. Prior to initiating rulemaking to determine course equivalents or to authorize a name change, LASFAC must seek the written comments and recommendation of the Louisiana Board of Regents.

D. Only those recommendations for a name change or for the designation of an equivalent course which have been submitted by a local school board or other equivalent education agency for private schools will be considered by LASFAC and such recommendations shall be submitted directly to the Office of Student Financial Assistance, Attention: Legal Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:1921 (October 1998), amended LR 27:1220 (August 2001), repromulgated LR 27:1871 (November 2001), amended LR 41:657 (April 2015).

George Badge Eldredge  
General Counsel

1504#023

## RULE

### Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs  
TOPS Continuation Requirements  
(LAC 28:IV.301, 501, 503, 505, 507,  
701, 703, 705, 801, 805, 1903, and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its scholarship/grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5, and R.S. 17:3048.6).

This rulemaking amends the scholarship and grant rules to provide that students with the TOPS Opportunity, Performance and Honors Awards must meet the same continuation requirement if they are enrolled in academic or technical programs. (SG15158R)

#### Title 28

#### EDUCATION

#### Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

#### Chapter 3. Definitions

##### §301. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

\* \* \*

*Academic Year (College)*—begins with the fall term of the award year and concludes immediately before the next fall term commences unless specifically provided otherwise in these rules. All intersessions and summer sessions are included.

\* \* \*

*Academic Year (TOPS)*—for students who are eligible for a TOPS Tech, Opportunity, Performance or Honors Award:

a. through the 2007-2008 academic year, the two- and four-year college and university academic year begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring term of the award year. Intersessions ending during the academic year are included in the academic year. The two- and four-year college and university academic year does not include summer sessions or intersessions that do not end during the academic year;

b. during the 2008-2009 academic year, the academic year begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the intersession immediately following the spring term of the award year. Intersessions ending during the academic year, including the intersession immediately following the spring term, are included in the academic year. The two- and four-year college and university academic year does not include summer sessions or other intersessions;

c. during the 2009-2010 and 2010-2011 academic years, the academic year begins with the fall term of the award year and concludes with the completion of the spring term of the award year or the intersession immediately following the spring term if such intersession ends no later

than June 15, whichever is later. Any intersession or term that begins and ends during the *academic year* is included. The two- and four-year college and university *academic year* does not include other intersessions or summer sessions. See the definition of intersession below;

d. beginning with the 2011-2012 academic year and thereafter, the academic year begins with the fall term of the award year and concludes immediately before the next fall term commences. All intersessions and summer sessions are included.

\* \* \*

*Average Award Amount (TOPS-Tech)*—is applicable to those students awarded the TOPS-Tech and TOPS Opportunity, Performance, and Honors Awards who attend a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or who attend an eligible cosmetology or proprietary school and are enrolled in a vocational, technical education certificate or diploma program or non-academic undergraduate degree program, and is determined by dividing the total dollar value of awards, which are made to students enrolled in the same types of programs in the prior academic year (TOPS) at eligible public colleges and universities that do not offer academic degrees at the baccalaureate level, by the total number of students that received the awards.

\* \* \*

*Award Year*—the academic year (TOPS) during which a TOPS award is paid.

\* \* \*

*Eligible Colleges or Universities*—Louisiana public colleges or universities and regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities; for recipients of the TOPS Tech Award only, beginning with the 2009-2010 academic year (TOPS), and for recipients of the TOPS Tech, Opportunity, Performance and Honors Award, beginning with the 2010-2011 academic year (TOPS), any school that has a valid and current certificate of registration issued by the state Board of Cosmetology in accordance with law and that is accredited by an accrediting organization recognized by the United States Department of Education and any proprietary school that has a valid and current license issued by the Board of Regents in accordance with law and that is accredited by an accrediting organization recognized by the United States Department of Education.

\* \* \*

*Program Year (Non-Academic Program)*—Repealed.

\* \* \*

*Returning Student*—a student who graduated from high school beginning with academic year (high school):

a. 2001-2002, and met all the academic requirements for a TOPS award, but who enrolled for the first time as a full-time student no later than the deadline established in §703.A.4 in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a full-time student in an eligible college or university; or

b. who was determined eligible for a TOPS Opportunity, Performance or Honors Award and enrolled for

the first time as a full-time student no later than the deadline established in §703.A.4 in an eligible college or university in Louisiana, subsequently enrolled in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a full-time student in an eligible college or university during or after the 2009-2010 academic year ( TOPS).

\* \* \*

*TOPS Cumulative Grade Point Average (Academic)*—through the 2014-15 academic year (TOPS), the grade point average calculated by LOSFA on all academic courses taken by a student at postsecondary institutions to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS award. The cumulative grade point average shall be calculated on a 4.00 scale and must include all academic courses from all postsecondary institutions attended for which the student has been awarded a grade. Academic courses taken at a college or university while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled must be included in the calculation. Grades earned in non-academic courses and courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

*TOPS Cumulative Grade Point Average (Non-Academic)*—through the 2014-15 academic year (TOPS), the grade point average calculated by LOSFA on all non-academic courses taken by a student at postsecondary institutions to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS award. The cumulative grade point average shall be calculated on a 4.00 scale and must include all non-academic courses from all postsecondary institutions attended for which the student has been awarded a grade. Non-academic courses taken at a college or university while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled must be included in the calculation. Grades earned in academic courses and courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

\* \* \*

*TOPS Cumulative Grade Point Average (Opportunity, Performance, Honors)*—beginning with the 2015-16 academic year (TOPS), the grade point average for students with the TOPS Opportunity, Performance and Honors Awards shall be calculated by LOSFA on all courses taken by a student at postsecondary institutions.

a. These courses shall include those taken at postsecondary institutions while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled.

b. The average for these courses shall be calculated on a 4.00 scale and shall include all courses for which the student has been awarded a grade. The average shall not include courses graded on a pass/fail basis.

c. This average will be used to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Opportunity, Performance or Honors Award.

*TOPS Cumulative Grade Point Average (TOPS Tech)*—beginning with the 2015-2016 academic year (TOPS) the grade point average for a student with the TOPS Tech Award shall be calculated by LOSFA on all courses taken by a student at postsecondary institutions while enrolled in a skill, occupational or technical program.

a. These courses shall include all those taken in skill, occupational or technical programs at postsecondary institutions while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled.

b. The average for these courses shall be calculated on a 4.00 scale and shall include all courses while enrolled in a skill, occupational or technical program for which the student has been awarded a grade. The average shall not include courses graded on a pass/fail basis.

c. This average will be used to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Tech Award.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:658 (April 2015).

## **Chapter 5. Applications, Federal Grant Aid and ACT Test**

### **§501. Initial Application**

A. Initial Application for High School Graduates of 2002-2003 or Earlier

1. Except as provided in Subparagraph A.2.b below, all new applicants for Louisiana scholarship and grant programs must apply for federal aid by completing the free application for federal student aid (FAFSA) for the academic year following the year the student graduated from high school. For example, if the student will graduate from high

school in school year 2002-2003, submit the 2003-2004 version of the FAFSA.

2. All new applicants for TOPS Opportunity, Performance, Honors and TOPS-Tech Awards who graduate from high school during the 2001-2002 or 2002-2003 academic years (high school) must apply for federal aid by completing the free application for federal student aid (FAFSA) for the academic year (TOPS) the applicant will be a first-time, full-time student. For example, if the applicant will graduate from high school in the 2002-2003 academic year (high school) and does not intend to enroll as a first-time, full-time student until the fall semester of 2004, he must submit the 2004-2005 version of the FAFSA.

A.2.a. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), LR 24:1900 (October 1998), amended LR 26:1994 (September 2000), repromulgated LR 27:1846 (November 2001), amended LR 29:554 (April 2003), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:1060 (May 2005), LR 41:659 (April 2015).

### **§503. Application Deadlines for High School Graduates of 2003 and Earlier**

A. - B.1.a. ...

b. For applicants graduating from high school during or after the 2001-2002 academic year (high school), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA application is the July 1 immediately preceding the academic year (TOPS) in which the applicant will be a first-time, full-time student.

B.1.c. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), LR 24:1900 (October 1998), amended LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 26:1994 (September 2000), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 28:1760 (August 2002), LR 29:554 (April 2003), LR 30:1471 (July 2004), LR 30:2016 (September 2004), LR 33:440 (March 2007), LR 41:660 (April 2015).

### **§505. Application Deadlines for High School Graduates and Home Study Completers of 2004 and Later and Eligible Non-Graduates**

A.1. - A.3. ...

B. Deadline for Payment for the Academic Year (TOPS) Immediately Following High School Graduation

1. Beginning with the 2007-2008 academic year (TOPS), to be determined eligible for payment of TOPS awards for the academic year (TOPS) immediately following the academic year (high school) of high school graduation, students must submit the initial FAFSA or on-line application so that it is received no later than the July 1 immediately following the academic year (high school) of graduation.

2. Beginning with the 2007-2008 academic year (TOPS), students will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning with the academic year (TOPS) immediately after the student's one year anniversary of high school graduation if their initial

FAFSA or on-line application is received after the July 1 immediately following the academic year (high school) of high school graduation and no later than the final deadline set forth in Subsection C, below, and if the student was enrolled during the preceding academic year (TOPS), the student has met the requirements for continuing eligibility.

3.a. Beginning with the 2010-2011 academic year (TOPS), students whose initial FAFSA or on-line application is received on or before July 1 immediately following the one year anniversary of high school graduation will receive payment of their TOPS award as provided in §701.E beginning with the first semester, quarter or term the student enrolls for the first time as a full-time student in an eligible college or university; provided that no payment of a TOPS award shall be made until the initial FAFSA or on-line application has been received and the applicant has been determined eligible for a TOPS award.

3.b. - 4.b. ...

### **C. Final Deadline for Full TOPS Award**

1.a. Except as provided below, through the 2006-2007 academic year (TOPS), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the on-line application is July 1 immediately prior to the academic year (TOPS) he first enrolls as a first-time freshman in an eligible college or university.

b. Beginning with the 2007-2008 academic year (TOPS), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or on-line application is July 1 immediately prior to the academic year (TOPS) immediately following the one year anniversary of high school graduation.

c.i. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during the 2004-2005 academic year (TOPS) are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2004-2005 academic year (TOPS) if their initial FAFSA or on-line application was received no later than October 29, 2004;

(b). with the 2005-2006 academic year (TOPS) if their initial FAFSA or on-line application was received after October 29, 2004, and no later than July 1, 2005, and, if the student enrolled as a full-time student during the 2004-2005 academic year (TOPS), the student has met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2005 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2005 if their initial FAFSA or on-line application was received no later than July 1, 2005.

iii. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during either the 2004-2005 academic year (TOPS) or fall semester of 2005 are eligible for a reduced TOPS award (see Subsection 505.D, below) beginning with

the fall semester of 2005, if their initial FAFSA or on-line application was received after July 1, 2005 and no later than October 31, 2005, and, if the student enrolled as a full-time student during the 2004-2005 academic year (TOPS), the student has met the requirements for continuing eligibility.

d.i. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during the 2005-2006 academic year (TOPS) will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2005-2006 academic year (TOPS) if their initial FAFSA or on-line application is received no later than October 31, 2005;

(b). with the 2006-2007 academic year (TOPS) if their initial FAFSA or on-line application is received after October 31, 2005, and no later than July 1, 2006, and, if the student enrolled as a full-time student during the 2005-2006 academic year (TOPS), the student met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2006 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2006 if their initial FAFSA or on-line application was received no later than July 1, 2006.

iii. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during either the 2005-2006 academic year (TOPS) or fall semester of 2006 are eligible for a reduced TOPS award (see Subsection 505.D, below) beginning with the fall semester of 2006, if their initial FAFSA or on-line application was received after July 1, 2006, and no later than October 30, 2006, and, if the student enrolled as a full-time student during the 2005-2006 academic year (TOPS), the student met the requirements for continuing eligibility.

e.i. Students who graduate from high school during the 2005-2006 academic year (high school) and enroll as a first-time freshman in an eligible college or university during the 2006-2007 academic year (TOPS) will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2006-2007 academic year (TOPS) if their initial FAFSA or on-line application is received no later than October 30, 2006;

(b). with the 2007-2008 academic year (TOPS) if their initial FAFSA or on-line application is received after October 30, 2006, and no later than July 1, 2007, and, if the student enrolled as a full-time student during the 2006-2007 academic year (TOPS), the student met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2005-2006 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2007 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2007 if their initial FAFSA or on-line application was received no later than July 1, 2007.

iii. Students who graduate from high school during the 2005-2006 academic year (high school) and enroll as a first-time freshman in an eligible college or university during either the 2006-2007 academic year (TOPS) or the fall semester of 2007 are eligible for a reduced TOPS award (see Subsection 505.D, below) beginning with the fall semester of 2007, if their initial FAFSA or on-line application is received after July 1, 2007, and no later than October 29, 2007, and, if the student enrolled as a full-time student during the 2006-2007 academic year (TOPS), the student met the requirements for continuing eligibility.

## 2. Returning Students

a. Beginning with the 2002-2003 through the 2004-2005 academic year (TOPS), in order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the on-line application is May 1 of the academic year (TOPS) he first enrolls as a full-time student in an eligible college or university.

b. Beginning with the 2005-2006 academic year (TOPS), in order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of the student's initial FAFSA or the on-line application is the July 1 immediately following the academic year (TOPS) he first enrolls as a full-time student in an eligible college or university.

C.3. - E. ...

## F. Renewal FAFSA

1.a. Through the 2004-2005 academic year (TOPS), in order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA so that it is received by May 1 of each academic year (TOPS) after initial eligibility is established.

b. Beginning with the 2005-2006 academic year (TOPS), in order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA so that it is received by the July 1 immediately preceding each academic year (TOPS) after initial eligibility is established.

2. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition are not required to submit a renewal FAFSA.

3.a. In the event of a budgetary shortfall, applicants who do not file a renewal FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

b. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition and do not want to be the first denied a TOPS award must file a renewal FAFSA so that it is received by the July 1 immediately preceding each academic year (TOPS) after initial eligibility is established.

4. All recipients of Louisiana Scholarship and Grant Programs other than TOPS and the Rockefeller Wildlife Scholarship Program must submit a renewal FAFSA for each academic year (TOPS) the student enrolls.

G. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 30:2017 (September 2004), LR 31:37 (January 2005), LR 32:2238 (December 2006), LR 33:83 (January 2007), LR 33:2357 (November 2007), LR 34:235 (February 2008), LR 37:588 (February 2011), LR 41:660 (April 2015).

**§507. Final Deadline for Submitting Documentation of Eligibility**

A. LASFAC will continue to process eligibility for both new and renewal applicants during each award year until July 1 after the spring term of that award year.

B.1. Through the 2004-2005 academic year (TOPS), all documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than May 1 of the award year. For example, to receive an award for the 2004-2005 award year, LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 2005.

2. Beginning with the 2005-2006 academic year (TOPS) through the 2010-11 academic year (TOPS), all documentation and certifications necessary to establish student initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than July 1 immediately following the academic year (TOPS) the student is first eligible for payment of a TOPS award. For example, if a student's initial FAFSA is received no later than July 1, 2007, for that student to receive an award for the 2007-2008 academic year (TOPS), LASFAC must have in its possession all documents relevant to establishing eligibility by July 1, 2008.

3. Beginning with the 2011-12 academic year (TOPS), all documentation and certifications necessary to establish student initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than January 15 immediately following the final deadline for receipt of the student's FAFSA or on-line application. For example, if a student's graduates from high school in May 2011, the final deadline for receipt of the student's FAFSA or on-line application is July 1, 2012, and the deadline for receipt of all documents relevant to establishing eligibility is January 15, 2013.

**C. Returning Students**

1. Returning students, who graduated high school during the 2001-2002 academic years (high school) and who

enroll in an eligible college or university in the spring semester 2003, must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

2. Returning students, who enroll in an eligible college or university in the fall semester of 2003 through the spring semester of 2005, must submit documentation that establishes TOPS eligibility no later than May 1 of the academic year (TOPS) the student enrolls in an eligible college or university. For example, a student who seeks to enroll in an eligible college or university in the fall semester of 2003 must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

3.a. Returning students, who enroll in an eligible college or university in academic year (TOPS) 2005-2006 or academic year (TOPS) 2006-2007, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (TOPS) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than April 15 following the July 1 deadline.

b.i. To receive the full benefits of a TOPS award as provided in §701.E, returning students, who enroll in an eligible college or university in the fall semester of 2007 or later, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (TOPS) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than January 15 following the July 1 deadline.

b.ii. - c.vii. ...

4.a. Beginning with the 2007-2008 academic year (TOPS), all documentation and certifications necessary to establish a returning student's initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than January 15 immediately following the deadline for receipt of the student's FAFSA or on-line application.

b. - b.iii. ...

D.1. A student who successfully completed an undergraduate degree prior to or during the 2001-2002 academic year (TOPS) and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1, 2004.

2. A student who successfully completes an undergraduate degree during the 2002-2003 through the 2004-2005 academic year (TOPS) and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1 of the academic year (TOPS) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2003-2004 academic year (TOPS), the student must submit the required documents no later than May 1, 2004.

3. A student who successfully completes an undergraduate degree during the 2005-2006 academic year

(TOPS) or later and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than July 1 immediately following the academic year (TOPS) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2006-2007 academic year (TOPS), the student must submit the required documents no later than July 1, 2007.

E. The reduction of the student's period of eligibility for this award under §507.C above shall not be cumulative with any reduction under §505.D or §509.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 30:1161 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 32:2238 (December 2006), LR 33:2357 (November 2007), LR 34:1389 (July 2008), LR 34:1884 (September 2008), LR 36:312 (February 2010), LR 38:3157 (December 2012), LR 41:662 (April 2015).

## **Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards**

### **§701. General Provisions**

A. - E.1.b. ...

2.a. The TOPS Performance Award provides a \$400 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C, or 701.E.2.b. The stipend will be paid for each qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

3.a. The TOPS Honors Award provides an \$800 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters,

except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C or 701.E.3.b. The stipend will be paid for each qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight semester limit for TOPS.

3.b. - 5.a. ...

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree receive an amount equal to the *average award amount (TOPS-Tech)*, as defined in §301, plus any applicable stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS). The stipend will be paid for each qualified summer session, semester, quarter, term or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight-semester limit for TOPS.

6. - 11.c. ...

F. Beginning with the 2000-2001 academic year (TOPS) and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of \$200 per qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. prior to June 18, 1999, the student was determined by the administering agency to be eligible for a Performance Award, but who chose either by submission of a completed award confirmation form or by not sending in a completed award confirmation form to receive an Opportunity Award and was awarded an opportunity award; and

2. the student, once enrolled at an eligible institution, has continuously met all requirements to maintain continued state payment for a Performance Award.

G. Beginning with the 2000-2001 academic year (TOPS) and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of \$400 per qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1645-1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995 (September 2000), LR 26:2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29:880 (June 2003), LR 29:2372 (November 2003), LR 30:1161 (June 2004), LR 31:2213 (September 2005), LR 35:228 (February 2009), LR 36:2854 (December 2010), LR 40:1002 (May 2014), LR 41:663 (April 2015).



### **§703. Establishing Eligibility**

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1.a. for students graduating in academic year (high school) 2001-2002 and prior, be a United States citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U.S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided and canceled if such proof is not provided by May 1 of the following academic year (TOPS). Students cancelled solely due to their failure to become a United States citizen within one year after the date of application shall be reinstated to their award if they are a United States citizen or a permanent resident as defined by the Bureau of Citizenship and Immigration Services and were eligible to apply for United States citizenship when cancelled and have met the requirements for maintaining eligibility for the award;

1.b. - 4.f. ...

g. all students must apply for an award by July 1 of the academic year (high school) in which they graduate to establish their initial qualification for an award, except as provided by §503.D. For a student entitled to defer acceptance of an award under §703.A.4.b or d that student must apply by July 1 of the academic year (high school) in which the student graduates, except as provided by §503.D:

i. and, if enrolling in an academic program, must also apply by July 1 prior to the academic year (TOPS) in which the student intends to first accept the award, and by July 1 of every year of eligibility thereafter, except as provided in §501.B; or

ii. and, if enrolling in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, must also apply by the July 1 immediately after the start of the academic year (TOPS) in which the student intends to first accept the award, and by July 1 of every year of eligibility thereafter, except as provided in §501.B;

A.5.a. - H.1.c. ...

2. A returning student who fails to enroll by the deadline established in §703.A.4 or to maintain full-time enrollment or to earn 24 hours during an academic year (TOPS) while enrolled in an out-of-state college or university, shall not be eligible for a TOPS award unless granted an exception in accordance with §2103.

H.3. - J.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:664 (April 2015).

### **§705. Maintaining Eligibility**

A. - A.5. ...

6. minimum academic progress:

a.i. in an academic undergraduate program at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or term in the academic year (TOPS), including any hours earned during an intersession ending during the academic year. These hours shall include remedial course work required by the institution, but shall not include hours earned during qualified summer sessions, summer sessions or intersessions that do not end during the academic year or by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

ii. beginning in the 2008-2009 and through the 2010-2011 academic year (TOPS), in an academic undergraduate program at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter in the academic year (TOPS), including any hours earned during an intersession ending during the academic year or immediately following the spring term. These hours shall include remedial course work required by the institution, but shall not include hours earned during qualified summer sessions, summer sessions or intersessions that do not end during the academic year or intersessions that do not immediately follow the spring term or by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

iii. beginning in the 2011-2012 academic year (TOPS), in an academic undergraduate program at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours



as determined by totaling the earned hours reported by the institution for each semester or quarter, intersession and summer session in the academic year (TOPS) (includes any hours earned during any intersession and/or summer session ending before the following fall semester or quarter). These hours shall include remedial course work required by the institution and hours for repeated courses, but shall not include hours by advanced placement course credits, by credit by exam, or through the College-Level Examination Program. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter, intersession and summer session in the academic year (TOPS) (includes any hours earned during any intersession and/or summer session ending before the following fall semester or quarter). These hours shall include remedial course work required by the institution and hours for repeated courses, but shall not include hours by advanced placement course credits, by credit by exam, or through the College-Level Examination Program. Unless granted an exception for cause by LASFAC, failure to earn 24 hours during the academic year (TOPS) will result in permanent cancellation of the recipient's eligibility; or

c. in an academic graduate or professional program at an eligible college or university, by the end of each academic year (TOPS), earn at least the total college credit hours required by the college or university for full-time enrollment for each semester or quarter as determined by totaling the earned hours reported by the institution for each semester or quarter, intersession and summer session in the academic year (TOPS) (includes any hours earned during any intersession and/or summer session ending before the following fall semester or quarter). These hours shall not include hours by advanced placement course credits, by credit by exam, or through the College-Level Examination Program. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

d. in an eligible cosmetology or proprietary school, meet the federal grant aid steady academic progress requirement at that school; and

7. maintain *steady academic progress* as defined in §301; and

8.a. Through the 2014-15 academic year (TOPS), maintain at an eligible college or university, by the end of the spring semester, quarter, or term, a TOPS cumulative college grade point average on a 4.00 maximum scale of at least:

i. a 2.30 with the completion of 24 but less than 48 credit hours, a 2.50 after the completion of 48 credit hours, for continuing receipt of an Opportunity Award, if enrolled in an academic program; or

ii. a 2.50, for continuing receipt of an Opportunity Award, if enrolled in a program for a vocational or technical

education certificate or diploma or a non-academic undergraduate degree; and

b. beginning the 2015-16 academic year (TOPS), maintain at an eligible college or university, by the end of the spring semester or quarter, a TOPS cumulative college grade point average (Opportunity, Performance, Honors) on a 4.00 maximum scale of at least:

i. a 2.30 with 24 but less than 48 earned credit hours for continuing receipt of an Opportunity Award, if enrolled for the spring semester or quarter in an academic program; or

ii. a 2.50 with 24 but less than 48 earned credit hours for continuing receipt of an Opportunity Award, if enrolled for the spring semester or quarter in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree; or

iii. a 2.50 with 48 or more earned credit hours for continuing receipt of an Opportunity Award, if enrolled for the spring semester or quarter in any program of study; and

c. a 3.00 for continuing receipt of either a Performance or Honors Award; or

d. the minimum grade necessary to maintain good standing, if enrolled in a graduate or professional program; or

e. meet the federal grant aid steady academic progress requirement at that school, if enrolled in an eligible cosmetology or proprietary school; and

B.1. Students failing to meet the requirements listed in §705.A.7 or §705.A.8.a, b, d, or e may have their tuition awards reinstated upon regaining "steady academic progress" (see §301) and/or attainment of the required TOPS cumulative grade point average, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

2. If the two-year period is interrupted due to a student's active duty in the United States Armed Forces, the two-year period will be extended for a length of time equal to the student's active duty service.

3. Students who fail to meet the requirements of §705.A.8.c, shall no longer be eligible for the stipend authorized for the Performance and Honors Awards, but shall be eligible to receive the award amount for the Opportunity Award if they meet the continuation requirements of §705.A.8.a, b, d, or e.

4.a. A student shall have one semester or quarter after the spring semester or quarter of 2016 for which the TOPS award will be paid to meet the requirements of §705.A.8.b if the student:

i. failed to meet the requirements listed in §705.A.8.b solely because the calculation of the TOPS cumulative grade point average (Opportunity, Performance, Honors) at the end of the spring semester or quarter of 2016 includes both hours and grades for courses taken before the 2015-16 academic year (TOPS) in both academic and technical courses of study; and

ii. was a high school graduate or home study completer who enrolled for the first time as a full-time student in an eligible postsecondary institution before the 2015-16 academic year (TOPS); and

iii. not suspended after the spring semester or quarter of 2014-15 academic year (TOPS).

b. The TOPS award of a student who meets the requirements of §705.B.4.a shall not be suspended unless the student fails to meet the requirements of §705.A.8.b by the end of the fall semester or quarter of 2016 in which case:

i. the student's TOPS award shall be suspended effective at the end of the fall semester or quarter of 2016; and

ii. the provisions of §705.B.1 and 2 shall apply.

c. If a student does not enroll full-time for the fall semester or quarter of 2016 and any subsequent consecutive semesters or quarters and is granted an exception for all of those semesters or quarters, the provisions of §705.B.4.b shall be extended to the end of the next semester or quarter during which the student enrolls full-time and for which the student's TOPS award is paid.

C. - D.3. ...

E. Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Opportunity, Performance or Honors Awards, a displaced student must meet all of the criteria in §705.A-D above, except as follows.

a. The TOPS award of a displaced student who enrolls for the first time as a full-time student in an eligible out-of-state college or university during the 2005-2006 academic year (TOPS) and subsequently enrolls at a Louisiana eligible college or university shall not be reduced due to enrollment in an eligible out-of-state institution during the 2005-2006 academic year (TOPS).

b. The TOPS award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006 academic year (TOPS) shall not be cancelled due to such out-of-state enrollment.

c. The TOPS award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006 academic year (TOPS) shall not be reduced for those semesters or terms such displaced student was enrolled in an eligible out-of-state institution during the 2005-2006 academic year (TOPS).

d. The period of suspension of a TOPS award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or term in which the student does not enroll on a full-time basis in an eligible college or university during the 2005-2006 academic year (TOPS).

2. - 3. ...

F.1. A student who successfully completes a baccalaureate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a graduate or professional school at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an undergraduate degree and has met the requirements for continued eligibility set forth in §705.A.6. The remaining eligibility may not be used to pursue a second undergraduate degree.

2. Beginning with the 2012-2013 academic year (TOPS), a student who successfully completes any type of technical, vocational, or academic credential other than a baccalaureate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a program of study leading to a baccalaureate degree, to a vocational or technical certificate or diploma, or to a non-academic degree at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an associate's degree and has met the requirements for continued eligibility set forth in §705.A.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996 (September 2000), LR 26:2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1163 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:437 (March 2007), LR 34:1390 (July 2008), LR 36:491 (March 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 40:1002 (May 2014), LR 41:664 (April 2015).

## **Chapter 8. TOPS-Tech Award**

### **§801. General Provisions**

A. - D.2. ...

3. Beginning with the 2010-2011 academic year (TOPS), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students with the TOPS-Tech Award participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus a sum of \$300 per semester or \$600 per program year (nonacademic program) to be applied toward the cost of books and other instructional materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 26:1997 (September 2000), repromulgated LR 27:1854 (November 2001), amended LR 36:2856 (December 2010), LR 41:666 (April 2015).

### **§805. Maintaining Eligibility**

A. To continue receiving the TOPS-Tech Award, the recipient must meet all of the following criteria:

1. have received the TOPS-Tech Award for not more than two years or the equivalent number of terms and summer sessions, provided that not attending a summer session shall not reduce the number of eligible terms; and, except as provided by §805.C, or unless reduced as required by §503.D;

2. - 4. ...

5. continue to enroll and accept the TOPS Tech Award as a full-time student in an eligible college or university defined in §301, and maintain an enrolled status throughout the academic year (TOPS) (enrollment in a summer session

is optional and is not required to meet this requirement), unless granted an exception for cause by LASFAC; and

6. ...

7. maintain, by the end of the spring term, a TOPS cumulative college grade point average (TOPS Tech) of at least 2.50 on a 4.00 maximum scale, provided that this requirement does not apply to a student who is enrolled in a cosmetology or proprietary school that is an eligible college or university and the student has met the federal grant aid steady academic progress requirement at that school; and

8. earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or term in the academic year (TOPS). Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility, provided that this requirement does not apply to a student who is enrolled in a cosmetology or proprietary school that is an eligible college or university and the student has met the federal grant aid steady academic progress requirement at that school.

B. - D.1. ...

a. The TOPS Tech Award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006 academic year (TOPS) shall not be cancelled due to such out-of-state enrollment.

b. The TOPS Tech Award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006 academic year (TOPS) shall not be reduced for those semesters or terms such displaced student was enrolled in an eligible out-of-state institution during the 2005-2006 academic year (TOPS).

c. The period of suspension of a TOPS Tech Award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or other term in which the student does not enroll on a full-time basis in an eligible college or university during the 2005-2006 academic year (TOPS).

d. A TOPS Tech Award may be used by a displaced student during the 2005-2006 academic year (TOPS) to enroll on a full-time basis in an academic program at a Louisiana eligible college or university to take courses that contribute to the pursuit of a skill or occupation. In such case, the award amount shall be at the same as the opportunity award for that institution.

D.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1165 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:438 (March 2007),

LR 35:1489 (August 2009), LR 38:3160 (December 2012), LR 40:1002 (May 2014), LR 41:666 (April 2015).

## **Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions**

### **§1903. Responsibilities of Post-Secondary Institutions**

A. - A.2.h. ...

3. Beginning with the 2013-2014 academic year (TOPS), an institution shall also report:

a. a student's completion of program of study;

b. whether the program of study was academic or technical;

c. type of credential (degree, certificate, diploma, baccalaureate);

d. semester of completion.

B. - B.9. ...

10.a. upon the school's certification that a student who is eligible for a TOPS-Tech Early Start Award is enrolled in an industry-based occupational or vocational education credential program in a top demand occupation institutions, shall bill for, and LASFAC will pay the institution, for each such recipient according to the following schedule.

Credit Hours	Payment
1	\$50
2	\$100
3	\$150
4	\$200
5	\$250
6	\$300

b. The maximum that may be billed is \$300 per semester and \$600 per academic year (TOPS).

c. Institutions may not bill for summer semesters or sessions.

B.11.a. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, 17:3041.10-3041.15, 17:3041.21-3041.26, R.S. 17:3048.1, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:1233 (July 2009), LR 35:1490 (August 2009), LR 35:1491 (August 2009), LR 36:2857 (December 2010), LR 40:282 (February 2014), LR 40:1003 (May 2014), LR 41:667 (April 2015).

## **Chapter 21. Miscellaneous Provisions and Exceptions**

### **§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements**

A. - C.3.b. ...

D. Procedure for Requesting Exceptions to the Initial and Continuous Enrollment Requirement

1. The student should complete and submit an application for an exception, with documentary evidence, to the office as soon as possible after the occurrence of the event or circumstance that supports the request. Through the 2000-2001 academic year (TOPS), the student must submit application for an exception no later than May 30 of the academic year the student requests reinstatement.

Commencing with the 2001-2002 academic year (TOPS), the student must submit the application for exception no later than six months after the date of the notice of cancellation, except that a returning student must submit the application for exception no later than six months after the date of the notice of ineligibility due to failure to meet the continuing eligibility requirements of §705. The deadline for filing the exception shall be prominently displayed on the notice of cancellation. If the applicant for an exception is a dependent student, a parent or court ordered custodian of the dependent student may submit the application for exception on behalf of the applicant.

D.2. - G.3. ...

4.a. For the 2005-2006 academic year (TOPS), displaced students are not required to enroll as full-time students, to maintain continuous enrollment or to earn at least 24 hours during the 2005-2006 academic year (TOPS).

b. Displaced students may enroll on a part-time basis in an eligible college or university without losing TOPS eligibility. Upon request by the student, the eligible college or university may bill for these part-time students.

c. The terms of eligibility for a displaced student whose part-time enrollment is paid by TOPS will be reduced by one full semester (term) for each semester (term) (part- or full-time) paid.

d. Institutions must document the displaced student's request for part-time payment of the award.

e. If a displaced student enrolls in an eligible college or university during the 2005-2006 academic year (TOPS) and receives grades, those grades will be included in calculating the student's cumulative grade point average.

5.a. For the 2005-2006 academic year (TOPS), students who are not displaced students, but due to the effects of a natural disaster were unable to enroll for the first time as full-time students by the deadline or to enroll as full-time students or to maintain continuous enrollment or to earn at least 24 hours during the academic year (TOPS), may submit a request for an exception in accordance with §2103.D, based on one of the circumstances listed in §2103.E, or in accordance with the following procedures for the circumstances described in this Subsection.

i. - ii. ...

b. Natural Disaster Exception (for other than displaced students)

i. Definition. The effects of a natural disaster prevented the student/recipient from enrolling as a full-time student or continuing enrollment or earning 24 hours during the 2005-2006 academic year (TOPS).

ii. - iii. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

**HISTORICAL NOTE:** Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April

2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 41:667 (April 2015).

George Badge Eldredge  
General Counsel

1504#020

## RULE

### Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs  
TOPS Tech Early Start Award  
(LAC 28:IV.1003)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its scholarship/grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking added definitions to the TOPS Tech Early Start Program rules, including a definition of *technical* or *applied course*. (SG15160R)

## Title 28

## EDUCATION

### Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs Chapter 10. TOPS-Tech Early Start Award §1003. Definitions

*Approved Training Program*—a program provided by an approved training provider of technical and/or applied courses toward a credential in a top demand occupation.

*Approved Training Provider*—a Louisiana provider recognized by the Louisiana Workforce Commission and approved by the state Board of Elementary and Secondary Education to provide technical and/or applied courses toward a credential in a top demand occupation.

*Credential*—industry-based certification, a certificate of applied science or a certificate of technical sciences approved by the Workforce Investment Council.

*Technical* or *Applied Course*—a course required for a credential in a top demand occupation.

*Top Demand Occupation*—an occupation identified by the Occupation Forecasting Conference as being in top demand in Louisiana and recognized by the State Industry-Based Certification Leadership Council.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

**HISTORICAL NOTE:** Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 41:668 (April 2015).

George Badge Eldredge  
General Counsel

1504#022

## RULE

### **Tuition Trust Authority Office of Student Financial Assistance**

START Saving Program (LAC 28:VI.301)

The Louisiana Tuition Trust Authority has amended its START Saving Program rules (R.S. 17:3091 et seq.). This rulemaking revises the residency requirements for account owners and beneficiaries to include individuals who are lawfully residing in the United States and have a valid Social Security number. (ST15157R)

#### **Title 28**

#### **EDUCATION**

#### **Part VI. Student Financial Assistance—Higher Education Savings**

#### **Chapter 3. Education Savings Account**

#### **§301. Education Savings Accounts**

A. - E.2. ...

F. Citizenship Requirements. Both an account owner who is not a legal entity and the beneficiary must meet the following citizenship requirements:

1. be a United States citizen; or
2. be a permanent resident of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor and provide copies of USCIS documentation with the submission of the owner's agreement; or
3. be lawfully residing in the United States and have a valid Social Security number.

G. - H.2. ...

3. By signing the owner's agreement:
  - a. the account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, certifies that:
    - i. both account owner and beneficiary are United States citizens or permanent residents of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor or be lawfully residing in the United States and have a valid Social Security number; and
    - (a). if permanent residents have provided copies of USCIS documentation with the submission of the application and owner's agreement; or
    - (b). if in the United States lawfully with a valid Social Security number have provided the visa or other document(s) from the USCIS evidencing lawful residency and a copy of the Social Security card from the Social Security Administration; and
    - ii. the information provided in the application is true and correct;
  - H.3.b. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002), LR 30:786 (April

2004), LR 33:443 (March 2007), LR 36:313 (February 2010), LR 41:669 (April 2015).

George Badge Eldredge  
General Counsel

1504#021

## RULE

### **Department of Environmental Quality Office of the Secretary Legal Division**

Ambient Air Quality Standards—PM<sub>10</sub>  
(LAC 33:III.711)(AQ351ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.711 (Log #AQ351ft).

This Rule is identical to federal regulations found in 40 CFR 50, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule has been promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule includes LAC 33:III.711, Tables 1, 1a and 2. The Rule updates the national ambient air quality standards (NAAQS) language for particulate matter (PM<sub>10</sub>). The Clean Air Act (CAA) directs EPA to propose and promulgate primary and secondary NAAQS. Louisiana is adopting the updated NAAQS language. This Rule is necessary to maintain equivalency with the federal regulations and/or standards which enable Louisiana to carry out its duty required by R.S. 30:2054, the provisions of the CAA and state implementation plan (SIP) to implement, maintain and enforce the NAAQS in each affected region within the state. The basis and rationale for this Rule are to update the NAAQS language to mirror federal regulations as it applies to Louisiana affected sources. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

#### **Title 33**

#### **ENVIRONMENTAL QUALITY**

#### **Part III. Air**

#### **Chapter 7. Ambient Air Quality**

#### **§711. Tables 1, 1a, 2—Air Quality**

A. Table 1. Primary Ambient Air Quality Standards

Table 1. Primary Ambient Air Quality Standards		
Air Contaminant	Maximum Permissible Concentration	
PM <sub>10</sub>	150 µg/m <sup>3</sup>	(Maximum 24-hour concentration not to be exceeded more than once per year averaged over a three-year period)
***		

1. - 2. ...  
B. Table 1a. Secondary Ambient Air Quality Standards

Table 1a. Secondary Ambient Air Quality Standards		
Air Contaminant	Maximum Permissible Concentration	
PM <sub>10</sub>	150 µg/m <sup>3</sup>	(Maximum 24-hour concentration not to be exceeded more than once per year averaged over a three-year period)
***		

1. - 2. ...  
C. Table 2. Ambient Air—Methods of Contaminant Measurement

Table 2. Ambient Air—Methods of Contaminant Measurement		
Air Contaminant	Sampling Interval	Analytical Method
PM <sub>10</sub>	24 hours	Reference method based on appendix J to 40 CFR 50 and designated in accordance with 40 CFR 53, or an equivalent method designated in accordance with 40 CFR 53.
***		

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1602 (September 2006), LR 34:433 (March 2008), amended by the Office of the Secretary, Legal Division, LR 40:1690 (September 2014), LR 41:669 (April 2015).

Herman Robinson, CPM  
Executive Counsel

1504#046

## RULE

### Office of the Governor Division of Administration Office of State Procurement

Procurement (LAC 34:V.2101, 2518, and 2521)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of the Governor, Division of Administration, Office of State Procurement, has amended Chapters 21 and 25 of LAC 34:V, Procurement.

The laws governing procurement by state executive branch agencies defines “written” or “in writing” as including “information that is electronically transmitted and stored.” As currently written, the rules governing the review of professional, personal, consulting, and social service contracts require original contracts with original signatures to be submitted to the Office of State Procurement. The following amendments to LAC 34:V.2518 and LAC 34:V.2521.E.1 are necessary in order to allow for the review of electronically transmitted documents.

The amendment to LAC 34:V.2521.M is necessary to correct an inconsistency between the rule as now written and governing law (see R.S. 39:1595(B)(10)(a)).

The amendment to LAC 34:V.2101 is necessary to be consistent with the provisions of R.S. 39:1661.

## Title 34

### GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

#### Part V. Louisiana Procurement Code

#### Chapter 21. Miscellaneous Provisions

#### §2101. Contract Provisions

##### [Formerly LAC 34:I.2101]

A. When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. When such a contract is awarded by competitive sealed bidding, exercise of the option shall be at the state's discretion only, and shall be at the mutual agreement of the state and the contractor.

B. Contract Clauses. Contracts may include clauses providing for equitable adjustments in prices, time for performance, or other contract provisions, as appropriate, covering the following subjects:

1. the unilateral right of the state to order in writing changes in the work within the general scope of the contract in any one or more of the following:

- drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the state in accordance therewith;
- method of shipment or packing; or
- place of delivery;
- security for contract performance;
- insurance requirements including as appropriate but not limited to general liability, automobile coverage, workers' compensation, and errors and omissions;
- beginning and ending dates of the contract;
- maximum compensation to be paid the contractor;

2. the unilateral right of the state to order in writing temporary stopping of the work or delaying of performance;

3. variations between estimated quantities of work in a contract and actual quantities;

4. manufacturers' design drawings shall be supplied in duplicate for all state buildings, to the appropriate state agency at the conclusion of the contract.

C. Additional Contract Clauses. Contracts shall include clauses providing for appropriate remedies and covering the following subjects:

- liquidated damages as may be appropriate;
- specified excuses for delay or nonperformance as may be appropriate;
- termination of the contract for default; and
- termination of the contract in whole or in part for the convenience of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:337 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1362 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:670 (April 2015).

## **Chapter 25. Procurement of Professional, Personal, Consulting, Social Services, and Energy Efficiency Contracts**

### **Subchapter A. General Provisions**

#### **§2518. Submission of Contracts**

**[Formerly LAC 34:V.118]**

A. At least one copy of said contract and attachments shall be submitted to the Office of State Procurement. The Office of State Procurement shall submit a list of all contracts for \$25,000 or more to the Legislative Fiscal Office. Copies of such contracts shall be forwarded to the Legislative Fiscal Office upon request. The Office of State Procurement will not accept for review and approval any contract that is not accompanied by the necessary attachments and copies as required herein. (Attachments being submittal letters, R.S. 39:1497 certification, BA-22, etc.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 4:497 (December 1978), amended LR 7:182 (April 1981), LR 8:592 (November 1982), LR 10:456 (June 1984), LR 11:1068 (November 1985), LR 13:653 (November 1987), repromulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 40:2562 (December 2014), LR 41:671 (April 2015).

#### **§2521. Contractual Review Process**

**[Formerly LAC 34:V.121]**

A. Contracts arriving in the Office of State Procurement will be date stamped and logged in. Contracts should be submitted prior to their effective dates and no contract shall be approved which has been submitted 60 days after its effective date unless written justification is provided by the using agency and approval granted by the state chief procurement officer or his designee. All submittals will be required to have a cover letter attached thereto in conformity with §195, Appendix D of this Part.

B. If a contract does not appear to be out of the ordinary and appears to have the necessary attachments and inclusions, it will be routed as appropriate to the Division of Administration budget analyst for the submitting agency. A BA-22, or its equivalent, shall be submitted with every contract submitted to the Office of State Procurement, which contains any expenditures or reduction in expenditures.

C. Contracts that are incomplete as to form may be returned to the submitting agency. If a contract is merely missing an attachment then the necessary attachment may be secured from the submitting agency.

##### **D. Contracts Returned from Budget**

1. Not Recommended for Approval. If a contract is not recommended for approval, the Office of State Procurement shall discuss the reason with the budget analyst. If the problem cannot be resolved, the contract shall be returned to the submitting agency with a letter explaining the problem.

2. Recommended for Approval. If a contract is recommended for approval the review process shall continue.

E. Legal and Content Review. There are a number of different types of contracts, and content requirements may vary a little. All contracts shall contain the following:

1. signatures of both the head of the using agency or his designee and the contractor.

E.2. - L. ...

M. A performance evaluation for every personal, professional, consulting or social services contract shall be done by the using agency in accordance with R.S. 39:1500. This performance evaluation shall be retained by the using agency for all small purchase contracts approved under delegated authority. For all other contracts this performance evaluation shall be submitted to the Office of State Procurement within 60 days after the termination of the contract. An example evaluation form can be found in §195, Appendix F of this Part. Using agencies should use their own formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 7:182 (April 1981), amended LR 8:592 (November 1982), LR 10:456 (June 1984), LR 11:1069 (November 1985), LR 13:87 (February 1987), LR 13:653 (November 1987), LR 15:81 (February 1989), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2562 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 40:2545 (December 2014), LR 41:671 (April 2015).

Jan B. Cassidy  
Assistant Commission

1504#001

### **RULE**

#### **Office of the Governor Division of Administration Tax Commission**

Ad Valorem Taxation  
(LAC 61:V.101, 304, 703, 907, 1103, 1307, 1503, 2503, 3101, 3103, 3105, 3106, 3107 and 3501)

Editor's Note: A new Fiscal and Economic Impact Statement was approved to incorporate changes made pursuant to R.S. 968(H)(2).

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, the Tax Commission has adopted, amended and/or repealed Sections of the Louisiana Tax Commission real/personal property rules and regulations for use in the 2015 (2016 Orleans Parish) tax year.

### **Title 61**

#### **REVENUE AND TAXATION**

##### **Part V. Ad Valorem Taxation**

#### **Chapter 1. Constitutional and Statutory Guides to Property Taxation**

##### **§101. Constitutional Principles for Property Taxation**

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A. - F.3.h. ...

G. Special Assessment Level

1. - 1.d....

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, for the

year prior to the application for the special assessment, exceeds \$71,563 for tax year 2015 (2016 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March

1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:528 (March 2014), LR 41:671 (April 2015).

### Chapter 3. Real and Personal Property

#### §304. Electronic Change Order Specifications, Property Classifications Standards and Electronic Tax Roll Export Specifications

##### A. Electronic Change Order Specifications

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##### B. Property Classifications Standards

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##### C. Electronic Tax Roll Export Specifications

Parish Information (Parish.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
***	***	***	***	***

Assessment Information (Assmt.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
***	***	***	***	***

Assessment Value Information (Avalue.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
***	***	***	***	***

Assessment Millage Information (Amillage.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
***	***	***	***	***

Millage Group Information (Tgroup.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
***	***	***	***	***

Parcel Information (Parcel.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
Tax_year	Numeric	4	Yes	Tax year submitting (Format: 1999, 2000,2001,2002,2003,2004, etc.)
***	***	***	***	***
Conv_book	Character	10	No	Conveyance book number
Conv_folio	Character	10	No	Conveyance page number
Instr_no	Character	8	No	Conveyance instrument number
***	***	***	***	***
Tax_sale	Character	1	No	Y = Yes and N = No (default)
Taxsale_date	Character	10	No	Date of tax sale (Format: 01/01/1999)
***	***	***	***	***

Legal Description Information (Legal.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
***	***	***	***	***

Additional Owner Information (Owner.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
***	***	***	***	***



Improvement Information (Improve.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
Tax_year	Numeric	4	Yes	Tax year submitting (ex. 1999, 2000)
***	***	***	***	***
Fact_cond	Character	40	Yes	Condition of improvement (Excellent, Avg., Fair, Poor)
Fact_qual	Character	40	Yes	Quality of construction (Excellent, Avg., Fair, Poor)
***	***	***	***	***

Place FIPS Information (FIPS.txt)				
Field Name	Field Type	Field Length	Required	Comments
***	***	***	***	***

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), amended LR 32:427 (March 2006), LR 36:765 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:529 (March 2014), LR 41:672 (April 2015).

## Chapter 7. Watercraft

### §703. Tables—Watercraft

#### A. Floating Equipment—Motor Vessels

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2014	0.992	1	94	.93
2013	1.005	2	87	.87
2012	1.014	3	80	.81
2011	1.042	4	73	.76
2010	1.075	5	66	.71
2009	1.067	6	58	.62
2008	1.098	7	50	.55
2007	1.141	8	43	.49
2006	1.203	9	36	.43
2005	1.259	10	29	.37
2004	1.354	11	24	.32
2003	1.401	12	22	.31
2002	1.424	13	20	.28

#### B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2014	0.992	1	97	.96
2013	1.005	2	93	.93
2012	1.014	3	90	.91
2011	1.042	4	86	.90
2010	1.075	5	82	.88
2009	1.067	6	78	.83
2008	1.098	7	74	.81
2007	1.141	8	70	.80
2006	1.203	9	65	.78
2005	1.259	10	60	.76
2004	1.354	11	55	.74
2003	1.401	12	50	.70

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2002	1.424	13	45	.64
2001	1.433	14	40	.57
2000	1.445	15	35	.51
1999	1.471	16	31	.46
1998	1.476	17	27	.40
1997	1.488	18	24	.36
1996	1.512	19	22	.33
1995	1.536	20	21	.32
1994	1.591	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:772 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:802 (March 2012), LR 39:490 (March 2013), LR 40:530 (March 2014), LR 41:673 (April 2015).

## Chapter 9. Oil and Gas Properties

### §907. Valuation of Oil, Gas, and Other Wells

#### A. ...

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#### 1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	40.36	141.26	6.05	21.19
1,250-2,499 ft.	36.44	103.87	5.47	15.58
2,500-3,749 ft.	28.64	68.79	4.30	10.32
3,750-4,999 ft.	39.61	68.54	5.94	10.28

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
5,000-7,499 ft.	46.58	66.90	6.99	10.04
7,500-9,999 ft.	102.12	90.18	15.32	13.53
10,000-12,499 ft.	297.78	109.39	44.67	16.41
12,500-14,999 ft.	484.28	165.18	72.64	24.78
15,000-17,499 ft.	619.84	188.36	92.98	28.25
17,500-Deeper ft.	N/A	526.88	N/A	79.03

## 2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	310.32	140.33	46.55	21.05
1,250-2,499 ft.	107.16	233.25	16.07	34.99
2,500-3,749 ft.	104.64	185.97	15.70	27.90
3,750-4,999 ft.	92.24	148.76	13.84	22.31
5,000-7,499 ft.	126.01	168.99	18.90	25.35
7,500-9,999 ft.	171.90	176.92	25.79	26.54
10,000-12,499 ft.	234.41	231.27	35.16	34.69
12,500-14,999 ft.	307.50	299.20	46.13	44.88
15,000-17,499 ft.	498.09	400.59	74.71	60.09
17,500-19,999 ft.	608.16	567.42	91.22	85.11
20,000-Deeper ft.	324.73	851.87	48.71	127.78

## 3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Table 907.A.3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters*				
Producing Depths	Cost—New By Depth, Per Foot		15% Of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 -1,249 ft.	N/A	N/A	N/A	N/A
1,250 -2,499 ft.	1,555.55	1,136.62	233.33	170.49
2,500 -3,749 ft.	799.88	873.54	119.98	131.03
3,750 -4,999 ft.	1,141.75	801.00	171.26	120.15
5,000 -7,499 ft.	568.18	741.90	85.23	111.29
7,500 -9,999 ft.	720.36	702.05	108.05	105.31
10,000 -12,499 ft.	815.50	711.63	122.33	106.74
12,500 -14,999 ft.	709.26	692.55	106.39	103.88
15,000 -17,499 ft.	488.85	718.59	73.33	107.79
17,500 - 19,999 ft.	243.50	686.99	36.53	103.05
20,000 - Deeper ft.	N/A	1,079.88	N/A	161.98

B. The determination of whether a well is a region 2 or region 3 well is ascertained from its onshore/offshore status as designated on the permit to drill or amended permit to drill form (location of wells section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the permit to drill or amended permit to drill form on file at the Department of Natural Resources.

### 1. Parishes Considered to be Located in Region I

Table 907.B.1 Parishes Considered to be Located in Region 1			
Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union

Table 907.B.1 Parishes Considered to be Located in Region 1			
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

NOTE: All wells in parishes not listed above are located in Region 2 or Region 3.

## 2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	20 Year Life Percent Good
2014	247423	Higher	97
2013	245849	247422	93
2012	244268	245848	90
2011	242592	244267	86
2010	240636	242591	82
2009	239277	240635	78
2008	236927	239276	74
2007	234780	236926	70
2006	232639	234779	65
2005	230643	232638	60
2004	229010	230642	55
2003	227742	229009	50
2002	226717	227741	45
2001	225352	226716	40
2000	223899	225351	35
1999	222882	223898	31
1998	221596	222881	27
1997	220034	221595	24
1996	218653	220033	22
1995	217588	218652	21
1994	Lower	217587	20 *
VAR.	900000	Higher	50

\*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

## C. Surface Equipment

1. Listed below is the cost-new of major items used in the production, storage, transmission and sale of oil and gas. Any equipment not shown shall be assessed on an individual basis.

2. All surface equipment, including other property associated or used in connection with the oil and gas industry in the field of operation, must be rendered in accordance with guidelines established by the Tax Commission and in accordance with requirements set forth on LAT Form 12-Personal Property Tax Report—Oil and Gas Property.

3. Oil and gas personal property will be assessed in seven major categories, as follows:

- oil, gas and associated wells;
- oil and gas equipment (surface equipment);
- tanks (surface equipment);
- lines (oil and gas lease lines);
- inventories (material and supplies);
- field improvements (docks, buildings, etc.);
- other property (not included above).

4. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good

listed in Table 907.B-2. When determining the value of equipment associated with a single well, use the age of that well to determine the appropriate percent good. When determining the value of equipment used on multiple wells, the average age of the wells within the lease/field will determine the appropriate year to be used for this purpose.

a. January 1, 2016 the allowance of depreciation by use of the appropriate percent good will be based on the actual age of the equipment, if known or available, and will apply only to surface equipment with an original purchase cost of \$2,500 or more.

5. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

6. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Actuators—(see Metering Equipment)	
Automatic Control Equipment—(see Safety Systems)	
Automatic Tank Switch Unit—(see Metering Equipment)	
Barges - Concrete—(assessed on an individual basis)	
Barges - Storage—(assessed on an individual basis)	
Barges - Utility—(assessed on an individual basis)	
Barges - Work—(assessed on an individual basis)	
Communication Equipment—(see Telecommunications)	
Dampeners—(see Metering Equipment—"Recorders")	
DESORBERS—(no metering equipment included):	
125#	114,320
300#	126,050
500#	143,440
Destroilers—(see Metering Equipment—"Regulators")	
Desurgers—(see Metering Equipment—"Regulators")	
Desilters—(see Metering Equipment—"Regulators")	
Diatrollers—(see Metering Equipment—"Regulators")	
Docks, Platforms, Buildings—(assessed on an individual basis)	
Dry Dehydrators (Driers)—(see Scrubbers)	
Engines-Unattached—(only includes engine and skids):	
Per Horsepower	360
Evaporators—(assessed on an individual basis)	
Expander Unit—(no metering equipment included):	
Per Unit	41,940
Flow Splitters—(no metering equipment included):	
48 In. Diameter Vessel	20,420
72 In. Diameter Vessel	27,050
96 In. Diameter Vessel	41,450
120 In. Diameter Vessel	58,890
Fire Control System—(assessed on an individual basis)	
Furniture & Fixtures—(assessed on an individual basis) (Field operations only, according to location.)	
Gas Compressors-Package Unit—(Skids, scrubbers, cooling system, and power controls. No metering or regulating equipment.):	
1 - 49 HP	750
50 - 99 HP	1,510
100 - 999 HP	1,230
1,000 - 1,499 HP	940
1,500 HP and Up	830

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Gas Coolers—(no metering equipment):	
5,000 MCF/D	32,210
10,000 MCF/D	36,280
20,000 MCF/D	112,860
50,000 MCF/D	256,060
100,000 MCF/D	419,370
Generators—Package Unit only -(no special installation) Per K.W.	240
Glycol Dehydration-Package Unit—(Including pressure gauge, relief valve and regulator. No other metering equipment.):	
Up to 4.0 MMCF/D	22,610
4.1 to 5.0 MMCF/D	25,220
5.1 to 10.0 MMCF/D	48,620
10.1 to 15.0 MMCF/D	67,650
15.1 to 20.0 MMCF/D	92,080
20.1 to 25.0 MMCF/D	119,730
25.1 to 30.0 MMCF/D	227,430
30.1 to 50.0 MMCF/D	254,050
50.1 to 75.0 MMCF/D	316,050
75.1 & Up MMCF/D	364,670
Heaters—(Includes unit, safety valves, regulators and automatic shut-down. No metering equipment.):	
Steam Bath—Direct Heater:	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	7,840
30 In. Diameter Vessel - 500,000 BTU/HR Rate	9,850
36 In. Diameter Vessel - 750,000 BTU/HR Rate	11,910
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	17,630
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	21,760
Water Bath—Indirect Heater:	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	6,690
30 In. Diameter Vessel - 500,000 BTU/HR Rate	9,180
36 In. Diameter Vessel - 750,000 BTU/HR Rate	11,970
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	16,960
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	21,700
Steam—(Steam Generators):	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	8,570
30 In. Diameter Vessel - 450,000 BTU/HR Rate	10,700
36 In. Diameter Vessel - 500 to 750,000 BTU/HR Rate	16,050
48 In. Diameter Vessel - 1 to 2,000,000 BTU/HR Rate	18,420
60 In. Diameter Vessel - 2 to 3,000,000 BTU/HR Rate	20,850
72 In. Diameter Vessel - 3 to 6,000,000 BTU/HR Rate	32,940
96 In. Diameter Vessel - 6 to 8,000,000 BTU/HR Rate	39,570
Heat Exchange Units-Skid Mounted—(see Production Units)	
Heater Treaters—(Necessary controls, gauges, valves and piping. No metering equipment included.):	
Heater - Treaters - (non-metering):	
4 x 20 ft.	17,140
4 x 27 ft.	22,060
6 x 20 ft.	23,100
6 x 27 ft.	29,050
8 x 20 ft.	37,010
8 x 27 ft.	43,330
10 x 20 ft.	48,930
10 x 27 ft.	57,560
L.A.C.T. (Lease Automatic Custody Transfer)—see Metering Equipment)	
JT Skid (Low Temperature Extraction)—(includes safety valves, temperature controllers, chokes, regulators, metering equipment, etc.—complete unit.):	
Up to 2 MMCF/D	42,540
Up to 5 MMCF/D	60,780
Up to 10 MMCF/D	145,870
Up to 20 MMCF/D	243,110
Liqua Meter Units—(see Metering Equipment)	
Manifolds—(see Metering Equipment)	
Material & Supplies-Inventories—(assessed on an individual basis)	
Meter Calibrating Vessels—(see Metering Equipment)	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Meter Prover Tanks—(see Metering Equipment)	
Meter Runs—(see Metering Equipment)	
Meter Control Stations—(not considered Communication Equipment) - (assessed on an individual basis)	
Metering Equipment	
Actuators—hydraulic, pneumatic and electric valves	6,620
Controllers—time cycle valve - valve controlling device (also known as Intermittent)	2,070
Fluid Meters:	
1 Level Control	
24 In. Diameter Vessel - 1/2 bbl. Dump	5,040
30 In. Diameter Vessel - 1 bbl. Dump	6,500
36 In. Diameter Vessel - 2 bbl. Dump	9,000
2 Level Control	
20 In. Diameter Vessel - 1/2 bbl. Dump	4,740
24 In. Diameter Vessel - 1/2 bbl. Dump	5,710
30 In. Diameter Vessel - 1 bbl. Dump	7,170
36 In. Diameter Vessel - 2 bbl. Dump	9,660
L.A.C.T. and A.T.S. Units:	
30 lb. Discharge	31,850
60 lb. Discharge	36,280
Manifolds—Manual Operated:	
High Pressure per well	24,980
per valve	8,450
Low Pressure per well	12,090
per valve	4,010
Manifolds—Automatic Operated:	
High Pressure per well	45,160
per valve	14,890
Low Pressure per well	32,210
per valve	10,880
NOTE: Automatic Operated System includes gas hydraulic and pneumatic valve actuators, (or motorized valves), block valves, flow monitors-in addition to normal equipment found on manual operated system. No Metering Equipment Included.	
Meter Runs—piping, valves & supports—no meters:	
2 In. piping and valve	6,810
3 In. piping and valve	7,660
4 In. piping and valve	9,240
6 In. piping and valve	12,880
8 In. piping and valve	19,350
10 In. piping and valve	25,770
12 In. piping and valve	32,210
14 In. piping and valve	43,880
16 In. piping and valve	57,310
18 In. piping and valve	70,990
20 In. piping and valve	92,260
22 In. piping and valve	116,270
24 In. piping and valve	142,340
Metering Vessels (Accumulators):	
1 bbl. calibration plate (20 x 9)	3,950
5 bbl. calibration plate (24 x 10)	4,250
7.5 bbl. calibration plate (30 x 10)	5,960
10 bbl. calibration plate (36 x 10)	7,410
Recorders (Meters)—Includes both static element and tube drive pulsation dampener-also one and two pen operations. per meter	2,740
Solar Panel (also see Telecommunications) per unit (10' x 10')	360

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Pipe Lines—Lease Lines	
Steel	
2 In. nominal size - per mile	19,810
2 1/2 In. nominal size - per mile	26,680
3 and 3 1/2 In. nominal size - per mile	34,040
4, 4 1/2 and 5 In. nominal size - per mile	58,530
6 In. nominal size - per mile	85,940
Poly Pipe	
2 In. nominal size - per mile	10,880
2 1/2 In. nominal size - per mile	14,650
3 In. nominal size - per mile	18,720
4 In. nominal size - per mile	32,150
6 In. nominal size - per mile	47,220
Plastic-Fiberglass	
2 In. nominal size - per mile	16,900
3 In. nominal size - per mile	28,930
4 In. nominal size - per mile	49,720
6 In. nominal size - per mile	72,990
NOTE: Allow 90 percent obsolescence credit for lines that are inactive, idle, open on both ends and dormant, which are being carried on corporate records solely for the purpose of retaining right of ways on the land and/or due to excessive capital outlay to refurbish or remove the lines.	
Pipe Stock—(assessed on an individual basis)	
Pipe Stock - Exempt—Under La. Const., Art. X, §4 (19-C)	
Production Units:	
Class I - per unit—separator and 1 heater—500 MCF/D	21,390
Class II - per unit—separator and 1 heater—750 MCF/D	28,500
Production Process Units—These units are by specific design and not in the same category as gas compressors, liquid and gas production units or pump-motor units. (Assessed on an individual basis.)	
Pumps—In Line per horsepower rating of motor	300
Pump-Motor Unit—pump and motor only Class I - (water flood, s/w disposal, p/l, etc.) Up to 300 HP - per HP of motor	360
Class II - (high pressure injection, etc.) 301 HP and up per HP of motor	430
Pumping Units-Conventional and Beam Balance—(unit value includes motor) - assessed according to API designation.	
16 D	6,990
25 D	13,130
40 D	16,410
57 D	21,880
80 D	36,530
114 D	37,990
160 D	51,110
228 D	55,490
320 D	70,140
456 D	83,270
640 D	100,830
912 D	106,670
NOTE: For "Air Balance" and "Heavy Duty" units, multiply the above values by 1.30.	
Regenerators (Accumulator)—(see Metering Equipment)	
Regulators: per unit	2,800

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Safety Systems	
Onshore And Marsh Area	
Basic Case:	
well only	5,590
well and production equipment	6,440
with surface op. ssv, add	9,660
Offshore 0 - 3 Miles	
Wellhead safety system (excludes wellhead actuators)	
per well	16,110
production train	40,300
glycol dehydration system	24,190
P/L pumps and LACT	56,400
Compressors	35,430
Wellhead Actuators (does not include price of the valve)	
5,000 psi	4,010
10,000 psi and over	6,020
NOTE: For installation costs - add 25 percent	
Sampler—(see Metering Equipment—"Fluid Meters")	
Scrubbers—Two Classes	
Class I - Manufactured for use with other major equipment and, at times, included with such equipment as part of a package unit.	
8 In. Diameter Vessel	3,400
10 In. Diameter Vessel	4,860
12 In. Diameter Vessel	5,530
Class II - Small "in-line" scrubber used in flow system usually direct from gas well. Much of this type is "shop-made" and not considered as major scrubbing equipment.	
8 In. Diameter Vessel	1,580
12 In. Diameter Vessel	2,070
NOTE: No metering or regulating equipment included in the above.	
Separators—(no metering equipment included)	
Horizontal—Filter /1,440 psi (High Pressure)	
6-5/8" OD x 5'-6"	4,980
8-5/8" OD x 7'-6"	5,410
10-3/4" OD x 8'-0"	7,600
12-3/4" OD x 8'-0"	10,210
16" OD x 8'-6"	16,410
20" OD x 8'-6"	24,250
20" OD x 12'-0"	25,530
24" OD x 12'-6"	34,400
30" OD x 12'-6"	50,200
36" OD x 12'-6"	59,680
Separators—(no metering equipment included)	
Vertical 2—Phase /125 psi (Low Pressure)	
24" OD x 7'-6"	5,650
30" OD x 10'-0"	6,080
36" OD x 10'-0"	12,700
Vertical 3—Phase /125 psi (Low Pressure)	
24" OD x 7'-6"	5,960
24" OD x 10'-0"	6,750
30" OD x 10'-0"	9,360
36" OD x 10'-0"	13,310
42" OD x 10'-0"	15,440
Horizontal 3—Phase /125 psi (Low Pressure)	
24" OD x 10'-0"	8,810
30" OD x 10'-0"	11,300
36" OD x 10'-0"	12,340
42" OD x 10'-0"	19,690

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Vertical 2—Phase /1440 psi (High Pressure)	
12-3/4" OD x 5'-0"	3,340
16" OD x 5'-6"	4,980
20" OD x 7'-6"	9,480
24" OD x 7'-6"	11,490
30" OD x 10'-0"	17,500
36" OD x 10'-0"	22,670
42" OD x 10'-0"	36,280
48" OD x 10'-0"	42,790
54" OD x 10'-0"	64,790
60" OD x 10'-0"	81,020
Vertical 3 - Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	5,830
20" OD x 7'-6"	10,210
24" OD x 7'-6"	11,850
30" OD x 10'-0"	18,290
36" OD x 10'-0"	23,400
42" OD x 10'-0"	38,170
48" OD x 10'-0"	44,250
Horizontal 2—Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	5,710
20" OD x 7'-6"	9,180
24" OD x 10'-0"	12,520
30" OD x 10'-0"	19,270
36" OD x 10'-0"	24,430
42" OD x 15'-0"	49,590
48" OD x 15'-0"	57,190
Horizontal 3—Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	8,810
20" OD x 7'-6"	9,850
24" OD x 10'-0"	14,340
30" OD x 10'-0"	20,420
36" OD x 10'-0"	29,420
36" OD x 15'-0"	32,880
Offshore Horizontal 3—Phase /1440 psi (High Pressure)	
30" OD x 10'-0"	42,360
36" OD x 10'-0"	40,420
36" OD x 12'-0"	58,650
36" OD x 15'-0"	61,200
42" OD x 15'-0"	95,000
Skimmer Tanks—(see Flow Tanks in Tanks section)	
Stabilizers—per unit	6,260
Sump/Dump Tanks—(See Metering Equipment -"Fluid Tanks")	
Tanks—no metering equipment	Per Barrel*
Flow Tanks (receiver or gunbarrel)	
50 to 548 bbl. Range (average tank size - 250 bbl.)	39.10
Stock Tanks (lease tanks)	
100 to 750 bbl. Range (average tank size - 300 bbl.)	30.40
Storage Tanks (Closed Top)	
1,000 barrel	25.90
1,500 barrel	22.90
2,000 barrel	22.20
2,001 - 5,000 barrel	20.40
5,001 - 10,000 barrel	19.20
10,001 - 15,000 barrel	18.00
15,001 - 55,000 barrel	12.60
55,001 - 150,000 barrel	9.50
Internal Floating Roof	
10,000 barrel	37.00
20,000 barrel	25.00
30,000 barrel	18.60
50,000 barrel	16.50
55,000 barrel	15.90
80,000 barrel	14.10
100,000 barrel	12.30
*I.E.: (tanks size bbls.) X (no. of bbls.) X (cost-new factor.)	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Telecommunications Equipment	
Microwave System	
Telephone and data transmission	48,620
Radio telephone	3,650
Supervisory controls:	
remote terminal unit, well	10,390
master station	23,700
towers (installed):	
heavy duty, guyed, per foot	610
light duty, guyed, per foot	50
heavy duty, self supporting, per foot	620
light duty, self supporting, per foot	130
equipment building, per sq. ft.	180
solar panels, per sq. ft.	60
Utility Compressors	
per horsepower - rated on motor	800
Vapor Recovery Unit—no Metering Equipment	
60 MCF/D or less	21,270
105 MCF/D max	30,390
250 MCF/D max	40,110
Waterknockouts—Includes unit, backpressure valve and regulator, but, no metering equipment.	
2' diam. x 16'	5,770
3' diam. x 10'	8,630
4' diam. x 10'	11,910
6' diam. x 10'	19,510
6' diam. x 15'	22,550
8' diam. x 10'	28,260
8' diam. x 15'	32,460
8' diam. x 20'	35,980
8' diam. x 25'	40,050
10' diam. x 20'	47,100

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Air and Water Units:	
Above ground	1,360
Below ground	580
Air Compressors:	
1/3 to 1 H.P.	1,820
1/2 to 5 H.P.	3,080
Car Wash Equipment:	
In Bay (roll over brushes)	48,930
In Bay (pull through)	75,950
Tunnel (40 to 50 ft.)	165,320
Tunnel (60 to 75 ft.)	221,230
Drive On Lifts:	
Single Post	8,930
Dual Post	10,060
Lights:	
Light Poles (each)	910
Lights - per pole unit	1,010
Pumps:	
Non-Electronic - self contained and/or remote controlled computer	
Single	3,870
Dual	5,750
Computerized - non-self service, post pay, pre/post pay. self contained and/or remote controlled dispensers	
Single	6,540
Dual	8,810
Read-Out Equipment (at operator of self service)	
Per Hose Outlet	1,430

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Signs:	
Station Signs	
6 ft. lighted - installed on 12 ft. pole	4,320
10 ft. lighted - installed on 16 ft. pole	7,900
Attachment Signs (for station signs)	
Lighted "self-serve" (4 x 11 ft.)	3,600
Lighted "pricing" (5 x 9 ft.)	3,680
High Rise Signs - 16 ft. lighted - installed on:	
1 pole	13,080
2 poles	17,120
3 poles	19,150
Attachment Signs (for high rise signs)	
Lighted "self-serve" (5 x 17 ft.)	6,950
Lighted "pricing" (5 x 9 ft.)	3,680
Submerged Pumps—(used with remote control equipment, according to number used - per unit)	3,860
Tanks—(average for all tank sizes)	
Underground - per gallon	2.20

NOTE: The above represents the cost-new value of modern stations and self-service marketing equipment. Other costs associated with such equipment are included in improvements. Old style stations and equipment should be assessed on an individual basis, at the discretion of the tax assessor, when evidence is furnished to substantiate such action.

\*This alternative assessment procedure should be used only when acquisition cost and age are unknown or unavailable. Otherwise, see general business section (Chapter 25) for normal assessment procedure.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1395 (May 2011), LR 38:803 (March 2012), LR 39:490 (March 2013), LR 40:531 (March 2014), LR 41:673 (April 2015).

## Chapter 11. Drilling Rigs and Related Equipment

### §1103. Drilling Rigs and Related Equipment Tables

#### A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
3,000	893,000	134,000
4,000	1,010,900	151,600
5,000	1,262,300	189,300
6,000	1,701,100	255,200
7,000	2,278,300	341,700

Table 1103.A Land Rigs		
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
8,000	2,944,100	441,600
9,000	3,650,000	547,500
10,000	4,350,400	652,600
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
11,000	5,005,500	750,800
12,000	5,582,500	837,400
13,000	6,057,900	908,700
14,000	6,419,800	963,000
15,000	6,669,500	1,000,400
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
16,000	6,823,900	1,023,600
17,000	6,917,300	1,037,600
18,000	7,003,600	1,050,500
19,000	7,158,200	1,073,700
20,000	7,479,800	1,122,000
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
21,000	8,093,200	1,214,000
25,000 +	9,150,500	1,372,600

1. - 2. ...

#### B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
IC	0-199 FT.	\$ 54,500,000	\$ 8,175,000
	200-299 FT.	108,900,000	16,335,000
	300-Up FT.	217,500,000	32,625,000
IS	0-199 FT.	16,400,000	2,460,000
	200-299 FT.	27,300,000	4,095,000
	300- Up FT.	32,600,000	4,890,000
MC	0-199 FT.	5,500,000	825,000
	200-299 FT.	10,900,000	1,635,000
	300- Up FT.	43,600,000	6,540,000
MS	0-249 FT.	11,400,000	1,710,000
	250 FT. and Deeper	22,400,000	3,360,000

IC - Independent Leg Cantilever

IS - Independent Leg Slot

MC - Mat Cantilever

MS - Mat Slot

#### C. Semisubmersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
	\$	\$
0- 800 FT.	49,700,000	7,455,000
801-1,800 FT.	89,200,000	13,380,000
1,801-2,500 FT.	163,400,000	24,510,000
2,501FT. and Deeper	512,800,000	76,920,000

NOTE: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

1. - 3.b.i. ...

#### D. Well Service Rigs Land Only

Table 1103.D Well Service Rigs Land Only				
Class	Mast	Engine	Fair Market Value (RCNLD)	Assessment
I	71' X 125M# 71' X 150M# 72' X 125M# 72' X 150M# 75' X 150M#	C-7 50 SERIES 6V71	200,000	30,000
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 200M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	C-11 50 SERIES 8V71	250,000	37,500
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	C-11 50 SERIES 8V92	310,000	46,500
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	C-15 60 SERIES 12V71	370,000	55,500
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	C-15 60 SERIES 12V71 12V92	420,000	63,000
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	C-15 60 SERIES 12V71 (2) 8V92	510,000	76,500
VII	117' X 215M#	C-15 60 SERIES (2) 8V92 (2) 12V71	660,000	99,000

D.1. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009), LR 36:778 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1399 (May 2011), LR 38:808 (March 2012), LR 39:495 (March 2013), LR 40:536 (March 2014), LR 41:678 (April 2015).

## Chapter 13. Pipelines

### §1307. Pipeline Transportation Tables

#### A. Current Costs for Other Pipelines (Onshore)

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	Cost per Mile	15 percent of Cost per Mile
2	\$ 174,710	\$ 26,210
4	205,200	30,780
6	241,020	36,150
8	283,100	42,470
10	332,520	49,880
12	390,570	58,590
14	458,750	68,810
16	538,830	80,820
18	632,890	94,930
20	743,370	111,510
22	873,140	130,970
24	1,025,570	153,840
26	1,204,600	180,690
28	1,414,880	212,230
30	1,661,870	249,280
32	1,951,980	292,800
34	2,292,730	343,910
36	2,692,970	403,950
38	3,163,070	474,460
40	3,715,240	557,290
42	4,363,810	654,570
44	5,125,580	768,840
46	6,020,340	903,050
48	7,071,300	1,060,700

NOTE: Excludes river and canal crossings

#### B. Current Costs for Other Pipelines (Offshore)

Table 1307.B Current Costs for Other Pipelines (Offshore)		
Diameter (inches)	Cost per Mile	15 percent of Cost per Mile
2	\$ 977,310	\$ 146,600
4	980,420	147,060
6	984,340	147,650
8	1,000,910	150,140
10	1,024,700	153,710
12	1,055,710	158,360
14	1,093,950	164,090
16	1,139,420	170,910
18	1,192,110	178,820
20	1,252,030	187,800
22	1,319,170	197,880
24	1,393,530	209,030
26	1,475,130	221,270
28	1,563,940	234,590
30	1,659,990	249,000
32	1,763,250	264,490
34	1,873,750	281,060
36	1,991,460	298,720
38	2,116,410	317,460
40	2,248,580	337,290
42	2,387,970	358,200
44	2,534,590	380,190
46	2,688,430	403,260
48	2,849,500	427,430

#### C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation)	
Actual Age	26.5 Year Life Percent Good
1	98
2	96
3	94
4	91
5	88
6	86
7	83
8	80
9	77
10	73
11	70
12	67
13	63
14	60
15	56
16	52
17	48
18	44
19	39
20	35
21	33
22	30
23	28
24	26
25	25
26	23
27 and older	20 *

\* Reflects residual or floor rate.

NOTE: See §1305.G (page PL-3) for method of recognizing economic obsolescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:684 (April 2008), LR 35:499 (March 2009), LR 36:778 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:496 (March 2013), LR 40:537 (March 2014), LR 41:680 (April 2015).

## Chapter 15. Aircraft

### §1503. Aircraft (Including Helicopters) Table

#### A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2014	0.992	1	97	.96
2013	1.005	2	93	.93
2012	1.014	3	90	.91
2011	1.042	4	86	.90



Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2010	1.075	5	82	.88
2009	1.067	6	78	.83
2008	1.098	7	74	.81
2007	1.141	8	70	.80
2006	1.203	9	65	.78
2005	1.259	10	60	.76
2004	1.354	11	55	.74
2003	1.401	12	50	.70
2002	1.424	13	45	.64
2001	1.433	14	40	.57
2000	1.445	15	35	.51
1999	1.471	16	31	.46
1998	1.476	17	27	.40
1997	1.488	18	24	.36
1996	1.512	19	22	.33
1995	1.536	20	21	.32
1994	1.591	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:499 (March 2009), LR 36:779 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:680 (April 2015).

## Chapter 25. General Business Assets

### §2503. Tables Ascertain Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. - A.1. ...

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B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2014 = 100*
2014	1	1578.8	0.992
2013	2	1558.7	1.005
2012	3	1545.9	1.014
2011	4	1503.2	1.042
2010	5	1457.4	1.075
2009	6	1468.6	1.067
2008	7	1427.3	1.098
2007	8	1373.3	1.141
2006	9	1302.3	1.203
2005	10	1244.5	1.259
2004	11	1157.3	1.354
2003	12	1118.6	1.401
2002	13	1100.0	1.424

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2014 = 100*
2001	14	1093.4	1.433
2000	15	1084.3	1.445
1999	16	1065.0	1.471
1998	17	1061.8	1.476
1997	18	1052.7	1.488
1996	19	1036.0	1.512
1995	20	1020.4	1.536
1994	21	985.0	1.591
1993	22	958.0	1.636
1992	23	939.8	1.667
1991	24	928.5	1.688
1990	25	910.2	1.721
1989	26	886.5	1.768

\*Reappraisal Date: January 1, 2014-1566.9 (Base Year)

C. ...

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D. Composite Multipliers 2015 (2016 Orleans Parish)

Table 2503.D Composite Multipliers 2015 (2016 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.69	.84	.86	.89	.91	.93	.94	.96	.97
2	.49	.69	.73	.79	.84	.87	.90	.93	.95
3	.34	.53	.58	.68	.77	.81	.86	.91	.94
4	.17	.35	.43	.56	.70	.76	.82	.90	.94
5		.25	.32	.46	.62	.71	.78	.88	.94
6		.19	.20	.35	.52	.62	.73	.83	.90
7			.20	.29	.43	.55	.68	.81	.89
8				.25	.34	.49	.63	.80	.89
9				.24	.29	.43	.59	.78	.88
10					.26	.37	.54	.76	.88
11					.25	.32	.50	.74	.87
12						.31	.43	.70	.87
13						.28	.37	.64	.85
14							.33	.57	.80
15							.30	.51	.75
16							.29	.46	.71
17								.40	.65
18								.36	.58
19								.33	.51
20								.32	.46
21								.32	.45
22									.43
23									.40
24									.34
25									.34
26									.33

1. Data sources for tables are:

- Cost Index—Marshall and Swift Publication Co.;
- Percent Good—Marshall and Swift Publication Co.;
- Average Economic Life—various.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198

(February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:500 (March 2009), LR 36:780 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1402 (May 2011), LR 38:810 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:681 (April 2015).

**Chapter 31. Public Exposure of Assessments; Appeals**  
**§3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings**

A. - I. ...

J. The Board of Review shall provide each appellant taxpayer with a written notice of their particular appeal determination with a copy simultaneously submitted to the assessor and the Tax Commission on or before the certification of the assessment list to the Tax Commission. The Board of Review notice of determination shall simultaneously be deposited in the United States Mail by certified mail (return receipt requested) to the Louisiana Tax Commission, the assessor and the taxpayer. The taxpayer address shall be at the address, provided by the taxpayer, shown on the appeal. The Board of Review may not create a cumulative notice to multiple taxpayers who are represented by the same taxpayer representative. The Board of Review may, however, send the multiple separate individual taxpayer determinations to the taxpayer representative compiled, organized and grouped by taxpayer in one certified mailing.

K. The determination of the Board of Review shall be final unless appealed, in writing, to the Tax Commission within 15 business days after the date of deposit of the simultaneous certified mail to the appealing taxpayer and assessor of the Board of Review notice of determination. Either or both parties may appeal the Board of Review determination to the Tax Commission.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1992, R.S. 47:2301 and R.S. 47:2321.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:501 (March 2009), LR 36:781 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 38:811 (March 2012), LR 40:539 (March 2014), LR 41:682 (April 2015).

**§3103. Appeals to the Louisiana Tax Commission**

A. ...

B. An appeal to the Louisiana Tax Commission shall be filed by depositing in the United States Mail by certified mail (return receipt requested) with the commission within 15 business days after the Board of Review's written decision was mailed to the appealing taxpayer and assessor. In order to institute a proceeding before the commission, the taxpayer or assessor shall file by depositing in the United

States Mail by certified mail (return receipt requested) Form 3103.A and, if applicable, Form 3103.B.

1. The assessor shall confirm, in writing, to the Tax Commission that the Board of Review has issued a written determination to each taxpayer and to the assessor's office in the format required by §3101.J. Upon filing an appeal to the Louisiana Tax Commission, the appealing party must simultaneously by deposit in the United States Mail by certified mail (return receipt requested) to the other party that an appeal was filed with the Louisiana Tax Commission. Failure to timely notify the other party, as provided herein, shall void the appeal to the Louisiana Tax Commission.

C. All filings to the Louisiana Tax Commission shall be filed in proper form, consisting of an original and seven copies on letter size paper, with the Office of the Administrator. All exhibits, where it is helpful, to the consideration of such exhibits, shall be indexed, numbered, color coded, tabbed or otherwise so identified as to provide ready accessibility. All appeals and filings shall be deemed filed when deposited with the United States Postal Service and can be evidenced by proof of mailing by registered or certified mail.

C.1. - P. ...

Q. Documents and papers offered into evidence for a hearing before the commission shall be marked as exhibits and bound. All exhibits, where it is helpful, to the consideration of such exhibits, shall be indexed, numbered, color coded, tabbed or otherwise so identified as to provide ready accessibility. Seven copies of all exhibits shall be provided to the commission, with a copy to the opposing party 10 days prior to the scheduled appeal. Exhibits offered by a taxpayer shall be marked "Exhibit Taxpayer\_\_\_\_" and shall be consecutively numbered. The taxpayer shall, at the time an exhibit is offered, state whether the exhibit contains information not furnished to the assessor before the end of the period for public exposure of the assessment lists. Exhibits offered by the assessor shall be marked "Exhibit Assessor\_\_\_\_" and shall be consecutively numbered. Exhibits offered by the commission or its staff representative shall be marked "Exhibit Tax Commission\_\_\_\_" and shall be consecutively numbered. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

R. - T. ...

U. The parties to an appeal shall be simultaneously notified in writing, by United States Mail by certified mail (return receipt requested), of the final decision by the commission. The taxpayer or assessor shall have 30 days from certified mailing date of the order to appeal to a court of competent jurisdiction. The Louisiana Tax Commission may not create a cumulative notice to multiple taxpayers who are represented by the same taxpayer representative. The Louisiana Tax Commission may, however, send the multiple separate individual taxpayer determinations compiled, organized and grouped by taxpayer to the taxpayer representative in one certified mailing.

V. ...

W. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents for a hearing may be issued by the commission upon its own

motion, or upon the written request of the taxpayer or assessor. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient. The form of subpoena attached hereto as Form SUBP.T-2 (found on the Tax Commission's website under General Forms), or a reasonable variation thereof, shall be filled out and presented with the subpoena request. Service of the subpoena may be accomplished by any of the methods prescribed by the Louisiana Administrative Procedure Act.

X. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002), LR 31:721 (March 2005), LR 32:436 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:811 (March 2012), LR 41:682 (April 2015).

### **§3105. Practice and Procedure for Public Service Property Hearings**

A. - P. ...

Q. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents at a hearing, may be issued by the commission upon its own motion, or upon the written request of the taxpayer. No subpoenas shall be issued until the taxpayer who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient. The form of subpoena attached hereto as Form SUBP.T-2 (found on the Tax Commission's website under General Forms), or a reasonable variation thereof, shall be filled out and presented with the subpoena request. Service of the subpoena may be accomplished by any of the methods prescribed by the Louisiana Administrative Procedure Act.

R. - S. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 30:492 (March 2004), LR 31:723 (March 2005), LR 32:438 (March 2006), LR 33:499 (March 2007), LR 34:689 (April 2008), LR 36:782 (April 2010), amended by the Office of

the Governor, Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:683 (April 2015).

### **§3106. Practice and Procedure for Appeal of Bank Assessments**

A. - Q. ...

R. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents at a hearing, may be issued by the commission upon its own motion, or upon the written request of the taxpayer. No subpoenas shall be issued until the taxpayer who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient. The form of subpoena attached hereto as Form SUBP.T-2 (found on the Tax Commission's website under General Forms), or a reasonable variation thereof, shall be filled out and presented with the subpoena request. Service of the subpoena may be accomplished by any of the methods prescribed by the Louisiana Administrative Procedure Act.

S. - T. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:499 (March 2007), LR 34:690 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:683 (April 2015).

### **§3107. Practice and Procedure for Appeal of Insurance Credit Assessments**

A. - Q. ...

R. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents at a hearing, may be issued by the commission upon its own motion, or upon the written request of the taxpayer. No subpoenas shall be issued until the taxpayer who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient. The form of subpoena attached hereto as Form SUBP.T-2 (found on the Tax Commission's website under General Forms), or a reasonable variation thereof, shall be filled out and presented with the subpoena request. Service of the subpoena may be accomplished by any of the methods prescribed by the Louisiana Administrative Procedure Act.

S. - T. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:501 (March 2007), LR 34:690 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:683 (April 2015).

## **Chapter 35. Miscellaneous**

### **§3501. Service Fees—Tax Commission**

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period

beginning on July 1, 2014, and ending on June 30, 2018, in connection with services performed by the Tax Commission as follows.

1. A fee for assessing public service property, at the rate of .01 percent of the assessed value, to be paid by each public service property which pays ad valorem taxes.

2. A fee for assessing insurance companies, at the rate of .015 percent of the assessed value, to be paid by each insurance company which pays ad valorem taxes.

3. A fee for assessing financial institutions, at the rate of .015 percent of the assessed value, to be paid by each bank and capital stock association which pays ad valorem taxes.

B. - E. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002), LR 30:493 (March 2004), LR 31:724 (March 2005), LR 32:439 (March 2006), LR 33:502 (March 2007), LR 35:501 (March 2009), Office of the Governor, Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 41:683 (April 2015).

James D. "Pete" Peters  
Chairman

1504#042

## **RULE**

### **Department of Health and Hospitals Board of Pharmacy**

#### **Dispenser Reporting to Prescription Monitoring Program (LAC 46:LIII.2901 and 2911)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended Chapter 29, Prescription Monitoring Program, of its rules by updating the definition of drugs of concern in §2901 to remove tramadol drug products, and further, by revising the deadline by which pharmacies and other dispensers of prescriptions for controlled substances are required to report those transactions to the PMP database, as indicated in §2911.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LIII. Pharmacists**

#### **Chapter 29. Prescription Monitoring Program**

##### **Subchapter A. General Operations**

##### **§2901. Definitions**

A. As used in this Chapter, the following terms shall have the meaning ascribed to them unless the context clearly indicates otherwise.

\* \* \*

*Drugs of Concern*—drugs other than controlled substances as defined by Rule which demonstrate a potential for abuse, including any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, esters, ethers, isomers, and salts of isomers (whenever the existence of such salts, esters, ethers, isomers, and salts of isomers is possible within the specific chemical designation):

a. butalbital when in combination with at least 125 milligrams of acetaminophen per dosage unit.

b. Repealed.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1345 (July 2007), amended LR 36:755 (April 2010), effective September 1, 2010, LR 39:314 (February 2013), LR 41:684 (April 2015).

#### **Subchapter B. Data Collection**

##### **§2911. Reporting of Prescription Monitoring Information**

A. Each dispenser shall submit to the board information regarding each prescription dispensed for a controlled substance.

B. Each dispenser shall submit the required information by electronic means no later than the next business day after the date of dispensing.

C. If the dispenser is unable to submit prescription information by electronic means, he may apply to the board for a waiver. The board may grant a waiver to that requirement; if so, the waiver shall state the format and frequency with which the dispenser shall submit the required information. The waiver shall expire one year after the date of issue, unless terminated sooner by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007), amended LR 39:314 (February 2013), LR 41:684 (April 2015).

Malcolm J. Broussard  
Executive Director

1504#025

## **RULE**

### **Department of Health and Hospitals Board of Pharmacy**

#### **Expiration Date of Schedule II Prescriptions (LAC 46:LIII.2745 and 2747)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended Chapter 27, Controlled Dangerous Substances, of its rules, in compliance with Act 865 of the 2014 Legislature, by changing the expiration date of prescriptions written for controlled substances listed in schedule II, as indicated in §2745 and §2747, from 6 months to 90 days.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LIII. Pharmacists**

**Chapter 27. Controlled Dangerous Substances**

**Subchapter F. Production, Distribution and Utilization**

**§2745. Prescriptions**

A. - E.4. ...

F. Controlled Substances Listed in Schedule II

1. - 1.h. ...

2. Expiration Date of Prescriptions. A prescription for a controlled substance listed in schedule II shall expire 90 days after the date of issue. No pharmacist shall dispense any controlled substance pursuant to an expired prescription.

F.3. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2149 (October 2008), amended LR 41:685 (April 2015).

**§2747. Dispensing Requirements**

A. ...

B. Prescriptions for Controlled Substances Listed in Schedule II

1. - 2.c. ...

3. Expiration Date. A pharmacist shall not dispense a prescription for a controlled substance listed in schedule II more than 90 days after the date of issue of the prescription.

B.4. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2152 (October 2008), amended LR 41:685 (April 2015).

Malcolm J. Broussard  
Executive Director

1504#024

**RULE**

**Department of Health and Hospitals**  
**Bureau of Health Services Financing**

Abortion Facilities  
Licensing Standards  
(LAC 48:I.Chapter 44)

The Department of Health and Hospitals, Bureau of Health Services Financing has repealed and replaced LAC 48:I.Chapter 44 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 44. Abortion Facilities**

**Subchapter A. General Provisions**

**§4401. Definitions**

*Abortion*—any surgical procedure performed, after pregnancy has been medically verified, with the intent to

cause the termination of the pregnancy, other than for the purpose of:

1. producing a live birth;
2. removing an ectopic pregnancy; or
3. removing a dead fetus caused by a spontaneous abortion.

*Active Admitting Privileges*—the physician is a member in good standing of the medical staff of a hospital that is currently licensed by the department, with the ability to admit a patient and to provide diagnostic and surgical services to such patient.

1. The hospital shall be located not further than 30 miles from the location at which the abortion is performed or induced, and shall provide obstetrical or gynecological health care services.

2. Violations of active admitting privileges provisions shall be fined not more than \$4,000 per violation.

*Administrator*—the person responsible for the day-to-day management, supervision, and operation of the outpatient abortion facility.

*Change of Ownership (CHOW)*—transfer of ownership to someone other than the owner listed on the initial licensing application or license renewal application.

*Coerced Abortion*—the use of force, intimidation, threat of force, threat of deprivation of food and shelter, or the deprivation of food and shelter by a parent or any other person in order to compel a female child to undergo an abortion against her will, whether or not the abortion procedure has been attempted or completed.

*CRNA*—a certified registered nurse anesthetist licensed by the Louisiana State Board of Nursing who is under the supervision of the physician performing the abortion or an anesthesiologist who is immediately available if needed as defined in the medical staff bylaws and in accordance with applicable licensing boards. A CRNA is an advanced practice registered nurse educated in the field of nurse anesthesia and certified according to the requirements of a nationally recognized certifying body such as the Council on Certification of Nurse Anesthetists or the Council on Recertification of Nurse Anesthetists, as approved by the board and who is authorized to select and administer anesthetics or ancillary services to patients under their care.

*Department*—the Department of Health and Hospitals (DHH).

*Facility Need Review (FNR)*—pursuant to R.S. 40:2116, a process that requires licensure applicants to prove the need for the services prior to applying for licensure.

*First Trimester*—the time period up to 14 weeks after the first day of the last menstrual period.

*General Anesthesia*—any drug, element, or other material which, when administered, results in a controlled state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including a loss of ability to independently maintain an airway and respond purposefully to physical stimuli or verbal command.

*Gestational Age*—the age of the unborn child as measured by the time elapsed since the first day of the last menstrual period as determined by a physician and confirmed through the use of an ultrasound.

*Health Standards Section (HSS)*—the Department of Health and Hospitals, Health Standards Section.

*Medical Director*—a physician who is responsible for all of the medical care provided to patients in the outpatient abortion facility, and for the ethical and professional practices of the medical staff.

*OSFM*—the Department of Public Safety and Corrections, Office of State Fire Marshal, Public Safety Services.

*OPH*—the Department of Health and Hospitals, Office of Public Health.

*Outpatient Abortion Facility*—any outpatient facility or clinic, other than a hospital or an ambulatory surgical center as defined by applicable state law, in which any second trimester or five or more first trimester abortions per calendar year are performed.

*Patient*—the woman receiving services from an outpatient abortion facility.

*Peer Review*—the evaluation of work by one or more persons of similar competence to the producers of the work.

*Physician*—a doctor who possesses a current license to practice medicine in Louisiana, is in good standing with the Louisiana State Board of Medical Examiners, and whose license does not restrict the doctor from performing the services at the outpatient abortion facility.

*Physician Assistant (PA)*—an individual who is currently approved by, licensed by, and in good standing with the Louisiana State Board of Medical Examiners to perform medical services under the supervision of a physician or group of physicians who are licensed by and registered with the Louisiana State Board of Medical Examiners to supervise a physician assistant and who is acting within the scope of all applicable state laws and the individual's professional license.

*Products of Conception*—placenta, amniotic sac or membrane, embryo, or fetal elements that result from a human pregnancy.

*Second Trimester*—the time period from 14 to 23 weeks after the first day of the last menstrual period.

*Secretary*—the secretary of the Louisiana Department of Health and Hospitals.

*Telecommunications*—any means of transmitting messages at a distance, including but not limited to:

1. telephones;
2. cell phones;
3. pagers; or
4. other similar devices which foster communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:685 (April 2015).

#### **§4403. General Licensing Provisions**

A. It shall be unlawful for outpatient abortion facilities in the initial licensing application process to accept patients or provide abortion services until licensed by the Department of Health and Hospitals (DHH). The department is the only licensing authority for outpatient abortion facilities in Louisiana.

B. Types of Licenses. The department shall have the authority to issue the following types of licenses:

1. full initial license;
2. provisional initial license;
3. full renewal license; and
4. provisional license.

C. An outpatient abortion facility shall be in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to an abortion or abortion procedures before the outpatient abortion facility will be issued an initial license to operate.

D. An outpatient abortion facility license shall:

1. be issued only to the person or entity named in the initial licensing application;
2. be valid only for the outpatient abortion facility to which it is issued and only for the physical address named in the initial licensing application;
3. be valid for one year from the date of issuance, unless revoked or suspended, prior to that date, or unless a provisional initial license or provisional license is issued;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the outpatient abortion facility;
5. not be subject to sale, assignment, donation, or other transfer, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

E. An outpatient abortion facility licensed by the department may only perform first and second trimester abortions pursuant to R.S. 40:2175.3.

F. A separately licensed outpatient abortion facility shall not use a name which is substantially the same as the name of another such facility licensed by the department. An outpatient abortion facility shall not use a name which is likely to mislead the patient or their family into believing it is owned, endorsed, or operated by the state of Louisiana.

G. No branches, satellite locations, or offsite campuses shall be authorized for an outpatient abortion facility.

H. Plan Review Process. Submission of plan review to the Office of the State Fire Marshall is required for initial licensure, major renovation, and change of location.

1. Applicants are required to refer to the OSFM for laws, rules, and editions of adopted codes and standards applicable to plan review by the OSFM.

2. One complete set of plans and specifications (construction documents), with application and review fee, shall be submitted to the OSFM for review.

3. Plan review submittal to the OSFM shall be in accordance with applicable state laws, rules, regulations, and the following.

a. Modifications to Physical Environment which involve Major Renovations. Any proposed change to the physical environment which involves major renovations shall require plan review for compliance with requirements applicable at the time of the proposed change.

i. Painting, re-tiling floors, installation of carpet, and repairing of roof damage or reroofing are not considered to be major renovations. Normal maintenance of a building does not require plan review by the OSFM.

ii. Major renovations may require a physical environment survey pursuant to §4407.D.5 and §4445.A.3.

b. The specific requirements outlined in the physical environment section of this Chapter.

c. Where services or treatment for four or more patients can be accommodated at more than one time, requirements applicable to Ambulatory Health Care occupancies, as defined by the most recently state-adopted edition of National Fire Protection Association (NFPA) 101, shall apply.

d. Where services or treatment for three or less patients can be accommodated at more than one time, requirements applicable to construction of business occupancies, as defined by the most recently state-adopted edition of NFPA 101, shall apply.

4. Upon approval, one copy of the documents reviewed by the OSFM and one copy of the OSFM plan review letter shall be submitted to the department. Electronic transfer of documents by the OSFM to the department is allowed to satisfy this requirement.

5. Waivers. When a requirement of these rules regarding plan review would impose a hardship, financial or otherwise, but would not adversely affect the health and safety of any patient, the outpatient abortion facility may submit a waiver request to the department, with supporting documentation. The issuance of a waiver by the department does not apply to the OSFM requirements for approval, which must be addressed exclusively by the outpatient abortion facility with the OSFM or the state health officer, as appropriate to the subject matter.

a. Waivers are granted only at the discretion of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:686 (April 2015).

#### **§4405. Initial Licensing Application Process**

A. The initial licensing application process requires submission and approval of plans and specifications (construction documents) and requires submission and approval of an initial licensing application packet, including but not limited to, a facility need review approval letter. No outpatient abortion facility shall accept patients or provide abortion services until in compliance with the provisions of this Chapter.

B. Plan Review Approval. All plans and specifications (construction documents) submitted by, or on behalf of, the outpatient abortion facility are required to be submitted and approved by the Office of State Fire Marshal (OSFM) as part of the licensing application process.

C. Initial Licensing Application Packet. An initial licensing application packet for an outpatient abortion facility shall be obtained from the department. A complete initial licensing application packet shall be submitted to the department for approval and onsite survey. The applicant may not provide outpatient abortion services until properly licensed by the department.

D. To be considered complete, the initial licensing application packet shall include the following:

1. a completed outpatient abortion facility initial licensing application and the non-refundable initial licensing fee;

2. a copy of the approval letter of the architectural facility plans for the outpatient abortion facility by the OSFM;

3. a copy of the on-site inspection report with approval for occupancy from the OSFM;

4. a copy of the health inspection report from the Office of Public Health (OPH);

5. an organizational chart identifying the name, position, and title of each person composing the governing body and key administrative personnel;

6. a floor sketch or drawing of the premises to be licensed;

7. pursuant to R.S. 40:2116, a copy of the facility need review approval letter; and

8. any other documentation or information required by the department for licensure, including but not limited to, a copy of any waiver approval letter, if applicable.

E. If the initial licensing application packet is incomplete as submitted, the applicant shall be notified in writing of the missing information and shall have 90 calendar days from receipt of the notification to submit the additional requested information. If the additional requested information is not timely submitted to the department within 90 calendar days, the initial licensing application shall be closed. If an initial licensing application is closed, an applicant who is still interested in operating an outpatient abortion facility must submit a newly completed initial licensing application packet and a new non-refundable initial licensing fee to begin the initial licensing application process again, subject to any facility need review approval.

F. Initial Licensing Surveys. Upon receipt of a complete initial licensing application packet, the department shall conduct an on-site initial licensing survey prior to issuing a full initial license. The initial licensing survey shall be announced.

1. If it is determined that the applicant is not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, and a potential threat to the health, safety, and welfare of the patients is presented, the department shall deny the initial licensing application.

2. If it is determined that the applicant is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, the department shall issue a full initial license to the applicant.

3. If it is determined that the applicant is not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, but the department, in its sole discretion, determines that the

noncompliance does not present a threat to the health, safety, and welfare of the patients, the department may issue a provisional initial license.

G. Full Initial License. The full initial license issued by the department shall be valid until the expiration date shown on the license unless the license is revoked or suspended prior to that date.

H. Provisional Initial License. The provisional initial license issued by the department shall be valid for a period not to exceed six months.

1. When a provisional initial license is issued by the department, the applicant shall submit a plan of correction to the department for approval and also shall be required to correct all deficiencies prior to the expiration of the provisional initial license.

2. Upon receipt of the applicant's plan of correction, the department shall conduct an unannounced follow-up survey, either on-site or by administrative desk review, to ensure the applicant is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures.

a. Following the follow-up survey, if it is determined that the applicant has corrected all deficiencies and has maintained compliance during the period of the provisional license, the department shall issue a full initial license for the remainder of the year.

b. Following the follow-up survey, if it is determined that the applicant has failed to correct all deficiencies, the provisional initial license shall expire unless otherwise determined by the department. The applicant shall be required to submit a newly completed initial licensing application packet and a new non-refundable initial licensing fee to begin the initial licensing application process again subject to any facility need review approval.

I. Informal Reconsideration and Administrative Appeal. The outpatient abortion facility does not have the right to request an informal reconsideration and/or an administrative appeal of the issuance or the expiration of a provisional initial license. An outpatient abortion facility that has been issued a provisional initial license is considered licensed and operational for the term of the provisional initial license. The issuance of a provisional initial license is not considered to be a denial of an initial licensing application, denial of a license renewal application, or license revocation for the purposes of this Chapter.

1. Informal Reconsideration. An outpatient abortion facility that has been issued a provisional initial license has the right to request an informal reconsideration regarding the validity of the deficiencies cited during the follow-up survey.

a. The request for an informal reconsideration must be in writing and received by HSS within five calendar days of receipt of the statement of deficiencies. If a timely request for an informal reconsideration is received, HSS shall schedule the informal reconsideration and notify the outpatient abortion facility in writing.

b. The request for an informal reconsideration must identify each disputed deficiency or deficiencies and the

reason for the dispute and include any documentation that demonstrates that the determination was made in error.

c. Correction of a deficiency or deficiencies cited in a follow-up survey shall not be the basis for an informal reconsideration.

d. The outpatient abortion facility shall be notified in writing of the results of the informal reconsideration.

2. Administrative Appeal. An outpatient abortion facility that has been issued a provisional initial license has the right to request an administrative appeal regarding the validity of the deficiencies cited during the follow-up survey.

a. The request for an administrative appeal must be in writing and received by the Division of Administrative Law (DAL), or its successor, within 15 days of receipt of the statement of deficiencies cited during the follow-up survey.

b. The request for an administrative appeal must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

c. Correction of a deficiency or deficiencies cited in a follow-up survey shall not be the basis for an administrative appeal.

d. Upon expiration of the provisional initial license, the outpatient abortion facility shall immediately cease and desist providing abortion services unless the DAL, or its successor, issues a stay of the expiration.

e. Stay of the Expiration. The request for a stay of the expiration must be submitted with the request for an administrative appeal and received by the DAL, or its successor, within 15 days of receipt of the statement of deficiencies.

i. Following a contradictory hearing and only upon a showing that there is no potential harm to the patients being served by the outpatient abortion facility, the stay may be granted by the DAL, or its successor.

f. If a timely request for an administrative appeal is received, the DAL, or its successor, shall conduct the administrative appeal in accordance with the Administrative Procedure Act.

i. If the final decision of the DAL, or its successor, is to remove all deficiencies, the outpatient abortion facility's license shall be granted/re-instated upon the payment of any licensing fees, outstanding sanctions, or other fees due to the department.

ii. If the final decision of the DAL, or its successor, is to uphold any of the deficiencies thereby affirming the expiration of the provisional initial license, the outpatient abortion facility shall:

(a). immediately cease and desist providing abortion services as an outpatient abortion facility;

(b). return the outpatient abortion facility license to the department; and

(c). notify the department in writing of the secure and confidential location where the patient medical records will be stored, including the name, physical address, and contact person, within 10 days of the rendering of the administrative appeal judgment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:687 (April 2015).



#### **§4407. Survey Activities**

A. Any applicant or outpatient abortion facility shall be subject to licensing surveys conducted by department surveyors to ensure that an applicant or outpatient abortion facility is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, and also to ensure there is no present threat to the health, safety, and welfare of the patient.

B. Any applicant or outpatient abortion facility subject to licensing surveys conducted by the department shall:

1. allow department surveyors access to any and all requested documents and information on the licensed premises, including, but not limited to, patient medical records and outpatient abortion facility records that are relevant or necessary for the survey;

2. allow department surveyors access to interview any staff or other persons as necessary or required; and

3. not interfere with or impede the survey process for department surveyors while conducting any survey.

C. The department is entitled to access all books, records, or other documents maintained by or on behalf of the outpatient abortion facility on the licensed premises to the extent necessary to ensure compliance with this Chapter. Ensuring compliance includes permitting photocopying by the department or providing photocopies to the department of any records or other information by or on behalf of the outpatient abortion facility as necessary to determine or verify compliance with this Chapter.

D. Types of Surveys. The department shall have the authority to conduct the following types of surveys.

1. Initial Licensing Surveys. The department shall conduct an on-site initial licensing survey to ensure the applicant is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures prior to issuing a full initial license. All initial licensing surveys shall be announced.

2. Annual Licensing Surveys. The department shall conduct an annual licensing survey. All annual licensing surveys shall be unannounced.

3. Complaint Surveys. The department shall conduct complaint surveys when a complaint is lodged against an outpatient abortion facility in accordance with R.S. 40:2009.13 et seq. All complaint surveys shall be unannounced.

4. Follow-up Surveys. The department may conduct a follow-up survey to ensure the outpatient abortion facility has corrected all deficiencies cited in the previous survey and is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound

requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures. All follow-up surveys shall be unannounced.

##### **5. Physical Environment Survey**

- a. An announced on-site survey to ensure the outpatient abortion facility is compliant with the applicable physical environment regulations due to the following:

- i. major renovations of a currently licensed outpatient abortion facility; or

- ii. relocation of a currently licensed outpatient abortion facility.

- b. A physical environment survey may be conducted alone or conducted in conjunction with another survey.

E. Statement of Deficiencies. Following any survey, the department surveyors shall complete the statement of deficiencies documenting relevant findings including the deficiency, the applicable governing rule, and the evidence supporting why the rule was not met including, but not limited to, observations, interviews, and record review of information obtained during the survey. The outpatient abortion facility shall receive a copy of the statement of deficiencies.

1. Display. The following statements of deficiencies issued by the department to the outpatient abortion facility must be posted in a conspicuous place on the licensed premises:

- a. the most recent annual licensing survey statement of deficiencies; and

- b. any follow-up and/or complaint survey statement of deficiencies issued after the most recent annual licensing survey.

2. Public Disclosure. Any statement of deficiencies issued by the department to an outpatient abortion facility shall be available for disclosure to the public within 30 calendar days after the outpatient abortion facility submits an acceptable plan of correction to the deficiencies or within 90 days of receipt of the statement of deficiencies, whichever occurs first.

F. Plan of Correction. The department may require a plan of correction from an outpatient abortion facility following any survey wherein deficiencies have been cited. The fact that a plan of correction is accepted by the department does not preclude the department from pursuing other actions against the outpatient abortion facility as a result of the cited deficiencies.

G. Informal Reconsideration. The applicant and/or outpatient abortion facility shall have the right to request an informal reconsideration of any deficiencies cited during any initial licensing survey, annual licensing survey, and follow-up survey.

1. The request for an informal reconsideration must be in writing and received by HSS within 10 calendar days of receipt of the statement of deficiencies. If a timely request for an informal reconsideration is received, HSS shall schedule the informal reconsideration and notify the outpatient abortion facility in writing.

2. The request for an informal reconsideration must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

3. Correction of the deficiency or deficiencies cited in any survey shall not be the basis for an informal reconsideration.

4. The outpatient abortion facility may appear in person at the informal reconsideration and may be represented by counsel.

5. The outpatient abortion facility shall receive written notice of the results of the informal reconsideration.

6. The results of the informal reconsideration shall be the final administrative decision regarding the deficiencies and no right to an administrative appeal shall be available.

H. Complaint Survey Informal Reconsideration. Pursuant to R.S. 40:2009.13 et seq., an outpatient abortion facility shall have the right to request an informal reconsideration of the validity of the deficiencies cited during any complaint survey, and the complainant shall be afforded the opportunity to request an informal reconsideration of the findings.

1. The department shall conduct the informal reconsideration by administrative desk review.

2. The outpatient abortion facility and/or the complainant shall receive written notice of the results of the informal reconsideration.

3. Except for the right to an administrative appeal provided in R.S. 40:2009.16(A), the results of the informal reconsideration shall be the final administrative decision and no right to an administrative appeal shall be available.

I. Sanctions. The department may impose sanctions as a result of deficiencies cited following any survey. A sanction may include, but is not limited to:

1. civil fine(s);
2. revocation of license;
3. denial of license renewal application;
4. immediate suspension of license; and
5. any and all sanctions allowed under federal or state law or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:689 (April 2015).

#### **§4409. Changes in Outpatient Abortion Facility**

##### **Information or Key Administrative Personnel**

A. An outpatient abortion facility license shall be valid for the person or entity named as the outpatient abortion facility and for the physical address provided by the applicant on the initial licensing application or by the outpatient abortion facility in the licensing renewal application submitted to the department.

B. Change of Information. Any change regarding the outpatient abortion facility's entity name, "doing business as" name, mailing address, telephone number, or any combination thereof, shall be reported in writing to the department within five calendar days of the change. Any change regarding the entity name or "doing business as" name requires a change to the outpatient abortion facility license and shall require a \$25 fee for the issuance of an amended license.

C. Change of Key Administrative Personnel. Any change regarding the outpatient abortion facility's key administrative personnel shall be reported in writing to the department within five calendar days of the change. For the purposes of this Chapter, key administrative personnel

includes the administrator and medical director, and the outpatient abortion facility shall provide the individual's name, hire date, and qualifications as defined in this Chapter.

D. Change of Ownership. A change of ownership (CHOW) of an outpatient abortion facility shall be reported in writing to the department at least five calendar days prior to the change. Within five calendar days following the change, the new owner shall submit to HSS all legal documents relating to the CHOW, an initial licensing application packet, and the non-refundable initial licensing fee. Once all required documentation and information is submitted and complete, HSS will review. If the CHOW is approved, the department shall issue a new license in the name of the new owner.

1. If the department has issued a notice of license revocation, denial of renewal, provisional license, or a notice of immediate suspension at the time the CHOW is submitted, the department shall deny the CHOW.

2. If there are any outstanding fees, fines, or monies owed to the department by the existing licensed entity, the CHOW will be suspended until payment of all outstanding amounts.

E. Change of Physical Address. An outpatient abortion facility that intends to change the physical address is required to obtain plan review approval from the OSFM in accordance with the provisions of this Chapter.

1. Because the license of an outpatient abortion facility is not transferrable or assignable, any proposed change in the physical address requires the outpatient abortion facility to submit a newly completed initial licensing application packet and a new non-refundable initial licensing fee. In addition, the outpatient abortion facility must submit a written notice of intent to relocate to the HSS at the time the plan review request is submitted to the OSFM for approval.

2. The department shall conduct an announced on-site survey at the proposed new location prior to relocation of the facility.

3. Any change regarding the outpatient abortion facility's physical address shall result in a new anniversary date for the license issued.

F. Duplicate License. Any request for a duplicate license shall be accompanied by a \$25 fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:690 (April 2015).

#### **§4411. License Renewal Application Process**

A. License Renewal Application Packet. A license renewal application packet for an outpatient abortion facility shall be obtained from the department. A complete license renewal application packet shall be submitted to the department at least 30 calendar days prior to the expiration of the current license.

B. To be considered complete, the license renewal application packet shall include the following:

1. a completed outpatient abortion facility license renewal application and the non-refundable license renewal fee;
2. a copy of the most current on-site inspection report with approval for occupancy from the OSFM;

3. a copy of the most current health inspection report with recommendation for licensing from the OPH;

4. payment of any outstanding fees, fines, or monies owed to the department; and

5. any other documentation required by the department for licensure.

C. If the license renewal application packet is incomplete as submitted, the outpatient abortion facility shall be notified in writing of the missing information, and shall have 10 calendar days from receipt of the notification to submit the additional requested information. If the additional requested information is not received within 10 calendar days or prior to the expiration of the current license, it will result in the voluntary non-renewal of the outpatient abortion facility license.

D. Licensing Renewal—Annual Licensing Survey. Upon receipt of a complete license renewal application packet, the department may conduct an on-site annual licensing survey. This annual licensing survey shall be unannounced.

1. If it is determined that the outpatient abortion facility is not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, and that a potential threat to the health, safety, and welfare of the patients is presented, the department shall deny the license renewal application.

2. If it is determined that the outpatient abortion facility is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, the department shall issue a full renewal license to the outpatient abortion facility.

3. If it is determined that the outpatient abortion facility is not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, and welfare of the patients, the department may issue a provisional license.

E. The issuance of a full renewal license does not in any manner affect any previously existing sanction by the department against an outpatient abortion facility including, but not limited to, civil fine(s) and/or plan of correction(s).

F. If the department has issued a notice of license revocation or a notice of immediate suspension of license at the time the license renewal application packet is submitted, the department shall deny the license renewal application.

G. Full Renewal License. The full renewal license issued by the department shall be valid until the expiration date

shown on the license, unless the license is modified, revoked, or suspended.

H. Provisional License. The provisional license issued by the department shall be valid for a period not to exceed six months.

1. At the discretion of the department, the provisional license may be extended for an additional period not to exceed 90 calendar days in order for the outpatient abortion facility to correct the deficiencies cited following any survey.

2. When a provisional license is issued by the department, the outpatient abortion facility shall submit a plan of correction to the department for approval and also shall be required to correct all deficiencies prior to the expiration of the provisional license.

3. Upon receipt of the outpatient abortion facility's plan of correction, the department shall conduct an unannounced follow-up survey, either on-site or by desk review, to ensure the outpatient abortion facility is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures.

a. Following the follow-up survey, if it is determined that the outpatient abortion facility has corrected all deficiencies and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the issuance of the outpatient abortion facility license.

b. Following the follow-up survey, if it determined that the outpatient abortion facility has failed to correct all deficiencies or has not maintained compliance during the period of the provisional license, or if new deficiencies are cited during the follow-up survey that present a threat to the health, safety, and welfare of a patient, the provisional license shall expire unless otherwise determined by the department. The outpatient abortion facility shall submit a newly completed initial licensing application packet and a new non-refundable initial licensing fee to begin the initial licensing application process again, subject to any facility need review approval.

I. Informal Reconsideration and Administrative Appeal. The outpatient abortion facility does not have the right to request an informal reconsideration and/or an administrative appeal of the issuance or expiration of a provisional license. An outpatient abortion facility that has been issued a provisional license is considered licensed and operational for the term of the provisional license. The issuance of a provisional license is not considered to be a denial of an initial licensing application, denial of a license renewal application, or license revocation for the purposes of this Chapter.

1. Informal Reconsideration. An outpatient abortion facility that has been issued a provisional license has the right to request an informal reconsideration regarding the validity of the deficiencies cited during the follow-up survey.

a. The request for an informal reconsideration must be in writing and received by HSS within five calendar days

of receipt of the statement of deficiencies cited during the follow-up survey. If a timely request for an informal reconsideration is received, HSS shall schedule the informal reconsideration and notify the outpatient abortion facility in writing.

b. The request for an informal reconsideration must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

c. Correction of a deficiency or deficiencies cited in a follow-up survey shall not be the basis for an informal reconsideration.

d. The outpatient abortion facility shall be notified in writing of the results of the informal reconsideration.

2. Administrative Appeal. An outpatient abortion facility that has been issued a provisional license has the right to request an administrative appeal regarding the validity of the deficiencies cited during the follow-up survey.

a. The request for an administrative appeal must be in writing and received by the DAL, or its successor, within 15 days of receipt of the statement of deficiencies cited during the follow-up survey.

b. The request for an administrative appeal must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

c. Correction of a deficiency or deficiencies cited in a follow-up survey shall not be the basis for an administrative appeal.

d. Upon expiration of the provisional license, the outpatient abortion facility shall immediately cease and desist providing abortion services unless the DAL, or its successor, issues a stay of the expiration.

e. Stay of the Expiration. The request for a stay of the expiration must be submitted with the request for an administrative appeal and received by the DAL, or its successor, within 15 days of receipt of the statement of deficiencies.

i. Following a contradictory hearing and only upon a showing that there is no potential harm to the patients being served by the outpatient abortion facility, the stay may be granted by the DAL, or its successor.

f. If a timely request for an administrative appeal is received, the DAL, or its successor, shall conduct the administrative appeal in accordance with the Administrative Procedure Act.

i. If the final decision of the DAL, or its successor, is to remove all deficiencies, the outpatient abortion facility's license will be granted/re-instated upon the payment of any licensing fees, outstanding sanctions, or other fees due to the department.

ii. If the final decision of the DAL, or its successor, is to remove some but not all deficiencies, the department shall have the discretion to determine the operational status of the outpatient abortion facility.

iii. If the final decision of the DAL, or its successor, is to uphold the deficiencies thereby affirming the expiration of the provisional license, the outpatient abortion facility shall:

(a). immediately cease and desist providing abortion services as an outpatient abortion facility;

(b). return the outpatient abortion facility license to the department; and

(c). notify the department in writing of the secure and confidential location where the patient medical records will be stored, including the name, physical address, and contact person, within 10 days of the rendering of the administrative appeal judgment.

#### J. Voluntary Non-Renewal of License

1. If an outpatient abortion facility fails to timely renew its license, the license shall expire on its face and is considered to be a voluntary non-renewal of license. At such time, the outpatient abortion facility shall immediately cease and desist providing abortions as an outpatient abortion facility.

2. Notice of Voluntary Non-Renewal of License. The outpatient abortion facility must provide advanced written notice of its voluntary non-renewal of license at least 30 calendar days prior to the date of the expiration of the outpatient abortion facility license. The notice of voluntary non-renewal of the license must be provided to all of the outpatient abortion facility's staff, including the medical director, to any patient having an abortion procedure within the last 30 calendar days of operation, and to HSS.

3. In addition, the outpatient abortion facility shall notify HSS in writing of the secure and confidential location where the patient medical records will be stored, including the name, physical address, and contact person.

4. As this is a voluntary action on the part of the outpatient abortion facility, no informal reconsideration or administrative appeal rights shall be available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:690 (April 2015).

#### **§4413. Cessation of Business**

A. Outpatient Abortion Facility Duties and Responsibilities. An outpatient abortion facility that voluntarily closes or ceases operations is considered to have surrendered its license to operate.

B. Except as provided in §4453 of these licensing regulations, a license shall be immediately null and void if an outpatient abortion facility ceases to operate.

C. A cessation of business is deemed to be effective the date on which the facility stopped offering or providing services to the community.

D. Upon the cessation of business, the facility shall immediately return the original license to the department.

E. Cessation of business is deemed to be a voluntary action on the part of the facility. The outpatient abortion facility does not have a right to appeal a cessation of business.

1. Notice of Cessation of Business. To the extent possible, the outpatient abortion facility shall provide advanced written notice of its cessation of business at least 30 calendar days prior to the date it intends to cease business operations. The notice of cessation of business must be provided to all the outpatient abortion facility's staff, including the medical director, to any patient having an abortion procedure within the last 30 days of operation, and to HSS.

2. In addition to the notice, the outpatient abortion facility shall submit a written plan for the disposition of patient medical records for approval by the department. The plan shall include the following:

- a. the effective date of the closure;
- b. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed provider's patients' medical records;
- c. the name of an appointed custodian(s) who shall provide the following:
  - i. access to the records and copies of the records to the patient or authorized representative, upon presentation of proper authorization(s); and
  - ii. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss, and destruction; and
- d. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing facility, at least 15 days prior to the effective date of closure.

F. If an outpatient abortion facility fails to follow the procedures of this Section, any owner, officer, member, manager, director, or administrator of the outpatient abortion facility may be prohibited from owning, managing, directing, or operating another outpatient abortion facility in the state of Louisiana for two years.

G. Once an outpatient abortion facility has ceased doing business, the facility shall not provide services until it has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:692 (April 2015).

#### **§4415. Denial of an Initial License, Denial of License Renewal Application, and License Revocation**

##### **A. Denial of an Initial License**

1. The department shall deny an initial license in the event that the initial licensing survey finds that the outpatient abortion facility is not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, and a potential threat to the health, safety, and welfare of the patients is presented.

2. The department shall deny an initial license for any of the reasons a license may be revoked or non-renewed pursuant to the provisions of this Chapter.

B. Denial of License Renewal Application and License Revocation. The department may deny a license renewal application or revoke a license for any of the following reasons:

1. failure to be in substantial compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures;

2. failure to comply with the terms and provisions of an education letter or settlement agreement;

3. failure to protect a patient from any act by staff, employee or other patient posing a threat to a patient's health and safety while on the licensed premises receiving services provided by the outpatient abortion facility;

4. knowingly providing false, forged, or altered statements or information on any documentation required to be submitted to the department or required to be maintained by the outpatient abortion facility, including, but not limited to:

- a. the initial licensing application packet or the license renewal application packet;
- b. data forms;
- c. patient medical records or outpatient abortion facility records; or
- d. matters under investigation by the department, the Office of the Attorney General, or law enforcement agencies;

5. knowingly making a false statement or providing false, forged, or altered information or documentation to DHH employees or to law enforcement agencies;

6. employing false, fraudulent, or misleading advertising practices;

7. an owner, officer, member, manager, administrator, director, managing employee, or person designated to manage or supervise patient care has either pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the adjudicating court:

a. for purposes of these provisions, conviction of a felony means a felony relating to any of the following:

- i. the assault, abuse, or neglect of a patient;
  - ii. cruelty, exploitation, or the sexual battery of a juvenile or the infirmed;
  - iii. a drug offense;
  - iv. crimes of a sexual nature;
  - vi. possession, use of a firearm or deadly weapon;
- or
- vii. fraud or misappropriation of federal or state funds;

8. failure to comply with all reporting requirements in a timely manner, as required by all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures;

9. failure to allow the department surveyors access to any and all requested documents and information on the licensed premises, including, but not limited to, patient medical records and outpatient abortion facility records, that are relevant or necessary for the survey;

10. failure to allow the department surveyors access to interview any staff or other persons as necessary or required;

11. interfering or impeding with the survey process;

12. bribery, harassment, intimidation, or solicitation of any patient, by or on behalf of the outpatient abortion facility, designed to cause that patient to use or retain the services of the outpatient abortion facility; or

13. failure to timely pay any licensing fees, outstanding sanctions, or other fees due to the department. For the purposes of this Chapter, any payments returned for insufficient funds are considered failure to timely pay.

C. Notice. The secretary shall provide 30 calendar days written notice of the denial of initial license, notice of denial of license renewal application, and notice of license revocation.

D. Administrative Reconsideration. The applicant and/or outpatient abortion facility has the right to request an administrative reconsideration of a decision by the department to deny an initial license, to deny a license renewal application, or to issue a revocation action of a license to operate an outpatient abortion facility. The applicant and/or outpatient abortion facility will receive written notice of the final results and decision. However, there is no right to request an informal reconsideration of a voluntary non-renewal of license as provided in this Chapter.

1. The request for an administrative reconsideration must be in writing and received by HSS within 15 calendar days of receipt of the notice of the denial of initial license, notice of denial of license renewal application, or notice of license revocation.

2. The request for an administrative reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an administrative reconsideration is received, HSS shall schedule the informal reconsideration and notify the applicant and/or outpatient abortion facility in writing.

4. The applicant and/or outpatient abortion facility shall have the right to appear in person at the administrative reconsideration and may be represented by counsel.

5. Correction of a deficiency or deficiencies that are the basis for the denial of initial license, denial of license renewal application, or license revocation shall not be a basis for an administrative reconsideration.

6. The administrative reconsideration process is not in lieu of the administrative appeals process.

7. The applicant and/or outpatient abortion facility shall receive written notice of the results of the informal reconsideration.

E. Administrative Appeals. The applicant and/or outpatient abortion facility has the right to request a suspensive administrative appeal of the secretary's decision to deny an initial license, deny a license renewal application, or to revoke a license to operate an outpatient abortion facility. There is no right to request a suspensive administrative appeal of a voluntary non-renewal of license as provided in this Chapter.

1. The request for a suspensive administrative appeal must be in writing and received by the Office of the Secretary within 30 calendar days of receipt of the notice of the results of the administrative reconsideration. A copy of the request for a suspensive administrative appeal shall be submitted to the DAL, or its successor, for docketing and handling the appeal.

a. Administrative Appeal Only. The applicant and/or outpatient abortion facility may forego its right to an administrative reconsideration and proceed directly to a suspensive administrative appeal. In such a case, the request for a suspensive administrative appeal must be in writing

and received by the Office of the Secretary within 30 calendar days of receipt of the notice of denial of initial licensing application, notice of denial of license renewal application, or notice of license revocation. The provisions of this Chapter shall otherwise govern this suspensive administrative appeal.

2. If a timely request for a suspensive administrative appeal is received, the Office of the Secretary shall forward the applicant and/or outpatient abortion facility's request and any accompanying documentation, to the DAL, or its successor, to be docketed, and send a copy of such request to the applicant or outpatient abortion facility either by U.S. mail, facsimile, or email.

3. The request for a suspensive administrative appeal shall state the basis and specific reasons for the appeal, and include any documentation that demonstrates that the determination was made in error.

4. If a timely request for a suspensive administrative appeal is received by the Office of the Secretary, the denial of license renewal application or license revocation shall be suspensive, and the outpatient abortion facility shall be allowed to continue to operate and provide abortions services until such time as the DAL, or its successor, issues a final administrative decision.

5. Correction of a deficiency or deficiencies that is the basis for the denial of the initial license, denial of the license renewal application, or license revocation shall not be a basis for a suspensive administrative appeal.

6. If the final decision of the DAL, or its successor, is to reverse the denial of an initial license, the applicant's license will be granted upon the payment of any licensing fees, outstanding sanctions, or other fees due to the department. If the final decision of the DAL, or its successor, is to reverse the denial of a license renewal application or license revocation, the license will be reinstated upon the payment of any licensing fees, outstanding sanctions, or other fees due to the department.

7. If the final decision of the DAL, or its successor, is to affirm the denial of a license renewal application or license revocation, the outpatient abortion facility shall:

a. immediately cease and desist providing abortion services as an outpatient abortion facility;

b. provide written notice to all of the outpatient abortion facility's staff, including the medical director, and to any patient having an abortion procedure within the last 30 calendar days of operation;

c. return the outpatient abortion facility license to the department; and

d. notify the department in writing of the secure and confidential location where the patient medical records will be stored, including the name, physical address, and contact person, within 10 days of the rendering of the administrative appeal judgment.

F. Prohibition Following Loss of License. If a license is revoked or renewal of license is denied, other than for cessation of business or non-operational status, or if the license is surrendered in lieu of an adverse action, any owner, officer, member, manager, director, or administrator of the outpatient abortion facility may be prohibited from owning, managing, directing, or operating another outpatient abortion facility in the state of Louisiana for two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:693 (April 2015).

#### **§4417. Immediate Suspension of License**

A. Pursuant to applicable state law, the secretary may issue an immediate suspension of a license if any investigation or survey determines that the applicant or outpatient abortion facility is in violation of any provision of applicable state laws, in violation of the rules promulgated by the department, or in violation of any other federal or state law or regulation, and the secretary determines that the violation or violations pose an imminent or immediate threat to the health, welfare, or safety of a client or patient.

B. Notice of Immediate Suspension of License. The secretary shall provide written notice of the immediate suspension of license.

C. Effective Date. The suspension of the license is effective immediately upon the receipt of the written notice of immediate suspension of license.

D. Administrative Appeal. The outpatient abortion facility shall have the right to request a devolutive administrative appeal of the immediate suspension of license.

1. The request for a devolutive administrative appeal must be in writing and submitted to the DHH Office of the Secretary within 30 calendar days of receipt of the notice of immediate suspension of license.

2. The request for a devolutive administrative appeal shall specify in detail the reasons why the appeal is lodged.

E. Injunctive Relief. The outpatient abortion facility shall have the right to file for injunctive relief from the immediate suspension of license.

1. Venue. Any action for injunctive relief shall be filed with the district court for the Parish of East Baton Rouge.

2. Burden of Proof. Before injunctive relief may be granted, the outpatient abortion facility shall prove by clear and convincing evidence that the secretary's decision to issue the immediate suspension of license was arbitrary and capricious.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:695 (April 2015).

#### **Subchapter B. Administration and Organization**

##### **§4421. Governing Body**

A. The outpatient abortion facility shall be in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances.

B. The outpatient abortion facility shall have a governing body that assumes full responsibility for the total operation of the outpatient abortion facility.

1. The governing body shall consist of at least one individual who will assume full responsibility.

2. The outpatient abortion facility shall maintain documentation on the licensed premises identifying the following information for each member of the governing body:

- a. name;
- b. contact information;
- c. address; and
- d. terms of membership.

3. The governing body shall develop and adopt bylaws which address its duties and responsibilities.

4. The governing body shall, at minimum, meet annually and maintain minutes of such meetings documenting the discharge of its duties and responsibilities.

C. The governing body shall be responsible for:

1. ensuring the outpatient abortion facility's continued compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements, prohibited activity requirements, e.g. presenting or otherwise delivering any instruction or program on any health topic, including but not limited to human sexuality or family planning, to students at a public elementary or secondary school, or at a charter school that receives state funding or knowingly providing any materials or media regarding human sexuality or family planning for distribution or viewing at a public elementary or secondary school, or at a charter school that receives state funding, or any other matter addressed by law related to abortion or abortion procedures;

2. designating a person to act as the administrator and delegating sufficient authority to this person to manage the day-to-day operations of the facility;

3. designating a person to act as the medical director and delegating authority to this person to allow him/her to direct the medical staff, nursing personnel, and medical services provided to each patient;

4. evaluating the administrator and medical director's performance annually, and maintaining documentation of such in their respective personnel files;

5. ensuring that upon hire and prior to providing care to patients and, at a minimum, annually, each employee is provided with orientation, training, and evaluation for competency according to their respective job descriptions;

6. developing, implementing, enforcing, monitoring, and annually reviewing in collaboration with the administrator, medical director, and registered nurse, written policies and procedures governing the following:

a. the scope of medical services offered;

b. personnel practices, including, but not limited to:

i. developing job descriptions for licensed and non-licensed personnel consistent with the applicable scope of practice as defined by federal and state law;

ii. developing a program for orientation, training, and evaluation for competency; and

iii. developing a program for health screening;

c. the management of medical emergencies and the immediate transfer to a hospital of patients and born alive infants regardless of gestational age requiring emergency medical care beyond the capabilities of the outpatient abortion facility and such policies and procedures shall identify emergency medical equipment and medications that will be used to provide for basic life support until emergency medical services arrive and assume care; and

d. disaster plans for both internal and external occurrences;

7. approving all bylaws, rules, policies, and procedures formulated in accordance with all applicable state laws, rules, and regulations;

8. ensuring all bylaws, rules, policies, and procedures formulated in accordance with all applicable state laws, rules, and regulations are maintained on the licensed premises and readily accessible to all staff;

9. maintaining organization and administration of the outpatient abortion facility;

10. acting upon recommendations from the medical director relative to appointments of persons to the medical staff;

11. ensuring that the outpatient abortion facility is equipped and staffed to meet the needs of its patients;

12. ensuring services that are provided through a contract with an outside source are provided in a safe and effective manner;

13. ensuring that the outpatient abortion facility develops, implements, monitors, enforces, and reviews at a minimum, quarterly, a quality assurance and performance improvement (QAPI) program;

14. developing, implementing, monitoring, enforcing, and reviewing annually written policies and procedures relating to communication with the administrator, medical director, and medical staff to address problems, including, but not limited to, patient care, cost containment, and improved practices;

15. ensuring that disaster plans for both internal and external occurrences are developed, implemented, monitored, enforced, and annually reviewed and that annual emergency preparedness drills are held in accordance with the disaster plan. The outpatient abortion facility shall maintain documentation on the licensed premises indicating the date, type of drill, participants, and materials;

16. ensuring that the outpatient abortion facility procures emergency medical equipment and medications that will be used to provide for basic life support until emergency medical services arrive and assume care;

17. ensuring that the outpatient abortion facility orders and maintains a supply of emergency drugs for stabilizing and/or treating medical and surgical complications for intra-operative and post-operative care on the licensed premises, subject to the approval by the medical director; and

18. ensuring that the outpatient abortion facility develops, implements, enforces, monitors, and annually reviews written policies and procedures to ensure that products of conception are disposed of in compliance with the Occupational Safety and Health Administration (OSHA), the Environmental Protection Agency (EPA), and with any other applicable federal, state, and local statutes, laws, ordinances, and department rules and regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2175.1 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:695 (April 2015).

#### **§4423. Staffing Requirements, Qualifications, and Responsibilities**

A. General Provisions. An outpatient abortion facility shall have enough qualified personnel as indicated under this Chapter who are available to provide direct patient care as needed to all patients and to provide administrative and nonclinical services needed to maintain the operation of the outpatient abortion facility in accordance with the provisions of this Chapter.

B. Administrator. The outpatient abortion facility shall have an administrator designated by the governing body who is responsible for the day-to-day management, supervision, and operation of the outpatient abortion facility. The administrator shall be a full-time employee, available and on-site, during the designated business hours.

1. Qualifications. The administrator shall be at least 18 years of age and possess a high school diploma or equivalent.

2. The outpatient abortion facility shall designate a person to act in the administrator's absence, and shall ensure this person meets the qualifications of the administrator pursuant to this Chapter. The outpatient abortion facility shall maintain documentation on the licensed premises identifying this person and evidence of their qualifications.

3. Duties and Responsibilities. The administrator shall be responsible for:

a. employing licensed and non-licensed qualified personnel to provide the medical and clinical care services to meet the needs of the patients being served;

b. ensuring that upon hire and prior to providing care to patients, each employee is provided with orientation, training, and evaluation for competency as provided in this Chapter;

c. ensuring that written policies and procedures for the management of medical emergencies and the immediate transfer to a hospital of patients and born alive infants regardless of gestational age requiring emergency medical care beyond the capabilities of the outpatient abortion facility are developed, implemented, monitored, enforced, and annually reviewed, and readily accessible to all staff;

d. ensuring that emergency medical equipment and medications that will be used to provide for basic life support until emergency medical services arrive and assume care are maintained in proper working order and are available for use on a day-to-day basis on the licensed premises;

e. ensuring that a licensed physician, who has admitting privileges at a hospital located not further than 30 miles from the location at which the abortion is performed or induced and provides obstetrical or gynecological health care services, to facilitate emergency care is on the licensed premises when a patient is scheduled to undergo an abortion procedure;

**NOTE:** The Department acknowledges that federal litigation is pending on the issue of admitting privileges. As such, licensing provisions regarding admitting privileges will only be enforced pursuant to Order, Judgment, Stipulation, or Agreement in the matter entitled June Medical Services LLC, et al versus Caldwell, et al, Case No. 3:14-cv-525, United States District Court, Middle District, and any matter consolidated with such matter.

f. ensuring that disaster plans for both internal and external occurrences are developed, implemented, monitored, enforced, and annually reviewed and that annual emergency preparedness drills are held in accordance with the disaster plan. The outpatient abortion facility shall maintain documentation on the licensed premises indicating the date, type of drill, participants, and materials;

g. ensuring that a licensed medical professional trained in CPR and trained in the use of emergency medical equipment is on the licensed premises at all times when abortion procedures are being performed;



h. ensuring that patient medical records are completely and accurately documented in accordance with the provisions of this Chapter within 30 days from the abortion procedure; and

i. maintaining current credentialing and/or personnel files on each employee that shall include documentation of the following:

i. a completed employment application;

ii. job description;

iii. a copy of current health screening reports conducted in accordance with the outpatient abortion facility policies and procedures and in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, and regulations;

iv. documentation that each employee has successfully completed orientation, training, and evaluation for competency related to each job skill as delineated in their respective job description;

v. documentation that all licensed nurses have successfully completed a Basic Life Support course; and

vi. other pertinent information as required by the outpatient abortion facility's policies and procedures, including but not limited to, prohibited activity, e.g. presenting or otherwise delivering any instruction or program on any health topic, including but not limited to human sexuality or family planning, to students at a public elementary or secondary school, or at a charter school that receives state funding or knowingly providing any materials or media regarding human sexuality or family planning for distribution or viewing at a public elementary or secondary school, or at a charter school that receives state funding requirements in accordance with applicable state laws, rules and regulations.

4. All credentialing and/or personnel files shall be current and maintained on the licensed premises at all times.

C. Medical Staff. The outpatient abortion facility shall provide medical and clinical services. The outpatient abortion facility shall employ qualified medical staff to meet the needs of the patients. No person shall perform or induce an abortion unless that person is a physician who meets the following qualifications and requirements.

1. Qualifications. Each member of the facility's medical staff shall be a physician, as defined in this Chapter, who meets the following requirements:

a. is currently licensed to practice medicine in the state of Louisiana;

b. is in good standing currently with the Louisiana State Board of Medical Examiners;

c. is currently enrolled in, or has completed, a residency rotation in obstetrics and gynecology or family medicine; and

d. is not restricted from performing such services and whose license is not restricted from performing such services at an abortion facility.

2. Physician Requirements. On the date the abortion is performed or induced, the physician performing or inducing the abortion shall:

a. have active admitting privileges at a hospital that is located not further than 30 miles from the location at which the abortion is performed or induced and that provides obstetrical or gynecological health care services; and

NOTE: The Department acknowledges that federal litigation is pending on the issue of admitting privileges. As such, licensing provisions regarding admitting privileges will only be enforced pursuant to Order, Judgment, Stipulation, or Agreement in the matter entitled June Medical Services LLC, et al versus Caldwell, et al, Case No. 3:14-cv-525, United States District Court, Middle District, and any matter consolidated with such matter.

b. provide the pregnant woman with all of the following before the abortion is performed or induced:

i. a telephone number by which the pregnant woman may reach the physician or licensed nurse or PA employed by the facility by which the abortion was performed or induced, who has 24 hours per day access to the woman's medical records so that the woman may request assistance related to any complications that arises from the performance or induction of the abortion, or to ask health-related questions regarding the abortion; and

ii. the name and telephone number of the hospital nearest to the home of the pregnant woman at which an emergency arising from the abortion would be treated.

3. Medical Director. The outpatient abortion facility shall have a medical director designated and approved by and accountable to the governing body who is responsible for all medical care provided to patients in the facility, and for the ethical and professional practices of the medical staff.

a. When an outpatient abortion facility has only one medical staff member, that individual shall serve as medical director.

b. The outpatient abortion facility shall designate a physician, as defined in this Chapter, to act in the medical director's absence. The outpatient abortion facility shall maintain documentation on the licensed premises identifying this physician and evidence of his/her qualifications.

c. Duties and Responsibilities. The medical director shall be responsible for:

i. developing, implementing, enforcing, monitoring, and annually reviewing written policies and procedures governing the medical and clinical services at the outpatient abortion facility, including, but not limited to:

(a). pre-operative procedures, intraoperative procedures, post-operative care and procedures, discharge, and follow-up care;

(b). laboratory services;

(c). infection control;

(d). pharmaceutical services, including, but not limited to, identifying the drugs dispensed and/or administered to patients on the licensed premises;

(e). anesthesia services;

(f). emergency medical treatment, including, but not limited to:

(i). identifying emergency medical equipment and medications that will be used to provide for basic life support until emergency medical services arrive and assume care;

(ii). identifying and ensuring that a supply of emergency drugs for stabilizing and/or treating medical and surgical complications are maintained on the licensed premises;

(iii). identifying and ensuring that each patient, before an abortion is performed or induced, is given by the physician performing or inducing the abortion, a telephone number of the hospital nearest to the home of the

pregnant woman at which an emergency arising from the abortion would be treated; and

(iv). identifying and ensuring that each patient, before an abortion is performed or induced, is given by the physician performing or inducing the abortion, a telephone number by which the pregnant woman may reach the physician, or licensed nurse or PA employed by the physician or facility at which the abortion was performed or induced, who has 24 hours per day access to the woman's relevant medical records so that the woman may request assistance related to any complication that arises from the performance or induction of the abortion, or to ask health-related questions regarding the abortion;

(g). patient medical records and reporting requirements;

(h). the examination of fetal tissue;

(i). the disposition of medical waste;

(j). physical environment; and

(k). quality assurance and performance improvement (QAPI) program;

ii. developing, implementing, enforcing, monitoring, annually reviewing written bylaws, rules, policies, and procedures for self-governing of the professional activity of all medical staff members including, but not be limited to:

(a). the structure of the medical staff;

(b). review of the credentials, and training, and competency of each medical staff member to perform medical and clinical services, at least every two years, and to delineate and to recommend approval for individual privileges;

(i). the recommendation shall be in writing and maintained on the licensed premises in the credentialing file;

(ii). verification that each member of the medical staff is a physician who possesses a current license to practice medicine in Louisiana, is in good standing with the Louisiana State Board of Medical Examiners, and whose license does not restrict the physician from performing the services at the outpatient abortion facility;

(iii). evaluation for competency and past performance of each medical staff member, at a minimum, annually, which shall include monitoring and evaluation of patient care provided;

(iv). medical staff discipline; and

(v). grievance process;

iii. monitoring and reviewing, at a minimum, quarterly, in collaboration with the QAPI team/committee, the medical and clinical services provided by the outpatient abortion facility to ensure acceptable levels of quality of care and services;

iv. reviewing reports of all accidents or unusual incidents occurring on the licensed premises and reporting to the administrator potential health and safety hazards;

v. ensuring that each patient receiving medical and clinical services is under the professional care of a member of the medical staff who shall assess, supervise, and evaluate the care of the patient;

vi. ensuring that a member of the medical staff remains on the licensed premises until each patient is assessed to be awake, alert, and medically stable prior to discharge; and

vii. ensuring that a member of the medical staff shall be either present or immediately available by telecommunications to the staff when there is a patient on the licensed premises.

D. Nursing Staff. The outpatient abortion facility shall provide nursing services and shall employ qualified nursing staff to meet the needs of the patients.

1. Registered Nurse. The outpatient abortion facility shall have a registered nurse (RN) who is responsible for the overall direction of all nursing staff and nursing services provided.

a. Qualifications. The RN shall:

i. have a current, unrestricted Louisiana registered nurse license; and

ii. be in good standing with the Louisiana State Board of Nursing.

2. Duties and Responsibilities. The RN shall be responsible for:

a. developing, implementing, enforcing, monitoring, and annually reviewing written policies and procedures governing the following:

i. nursing personnel, including, but not limited to:

(a). developing a job description that delineates responsibilities and duties for each category of licensed and non-licensed nursing staff consistent with acceptable nursing standards of practice;

(b). orientation;

(c). training; and

(d). evaluation for competency;

ii. nursing care and services consistent with accepted nursing standards of practice;

b. assigning duties and functions to each licensed and non-licensed employee commensurate with his/her licensure, certification, experience, and competence consistent with acceptable nursing standards of practice;

c. verifying that each licensed nurse possesses a current and unrestricted license to practice nursing in Louisiana and is in good standing with their applicable state licensing board;

d. ensuring that the number of nursing staff on duty is sufficient to meet the needs of the patient(s);

e. ensuring that at least one licensed nurse is present when there is a patient receiving or recovering from an abortion procedure on the licensed premises;

f. ensuring that each licensed nurse working at the outpatient abortion facility has successfully completed a basic life support course; and

g. developing, implementing, enforcing, monitoring, and reviewing annually in collaboration with the medical director, written policies and procedures establishing a formalized program of in-service training and evaluation for competency for each category of licensed and non-licensed nursing staff and for all nursing care and services provided at the outpatient abortion facility.

i. The RN shall ensure that the training is related to each job skill as delineated in their respective job description.

ii. The RN shall ensure an evaluation for competency is performed for each category of licensed and non-licensed nursing staff and for all nursing care and services provided.

iii. The RN shall maintain documentation in the personnel file of each nursing staff member evidencing the content of the training that was provided, including the name of the evaluator, date, nurse's name, and documents provided.

iv. The RN shall maintain documentation in the personnel file of each nursing staff member evidencing that an evaluation for competency was conducted, including the name of the evaluator, date, nurse's name, and a notation that the nurse is competent in each job skill as delineated in their respective job description.

E. Orientation and Training. The administrator shall develop, implement, enforce, monitor, and annually review, in collaboration with the medical director and registered nurse, written policies and procedures regarding orientation and training of all employees.

1. Orientation. Upon hire and prior to providing care to patients, all employees shall be provided orientation related to the outpatient abortion facility's written policies and procedures governing the following:

- a. organizational structure;
- b. confidentiality;
- c. grievance process;
- d. disaster plan for internal and external occurrences;
- e. emergency medical treatment;
- f. program mission;
- g. personnel practices;
- h. reporting requirements; and
- i. basic skills required to meet the health needs of the patients.

2. Training. Upon hire, and at a minimum, annually, all employees shall be provided training in each job skill as delineated in their respective job description.

a. Medical training of a licensed medical professional shall only be provided by a medical professional with an equivalent or higher license.

b. Training of a non-licensed employee related to the performance of job skills relative to medical and clinical services shall only be provided by a licensed medical professional consistent with the applicable standards of practice.

c. All training programs and materials used shall be available for review by HSS.

d. The administrator shall maintain documentation of all of the training provided in each employee's personnel files.

F. Evaluation for Competency. Upon hire, and at a minimum, annually, the outpatient abortion facility shall conduct an evaluation for competency of all employees related to each job skill as delineated in their respective job description.

1. The evaluation for competency shall include the observation of job skills and return demonstration by the employee.

2. Evaluation for competency of a licensed medical professional shall only be provided by a medical professional with an equivalent or higher license.

3. Evaluation for competency of a non-licensed employee related to the performance of job skills relative to medical and clinical services shall only be provided by a

licensed medical professional consistent with their applicable scope of practice.

4. The administrator shall maintain documentation of all evaluations for competencies in each employee's personnel file.

G. Health Screening. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review written policies and procedures governing health screening of personnel in accordance with all applicable federal, state, and local statutes, laws, ordinances, and department rules and regulations. The administrator shall maintain documentation of health screening reports in each employee's personnel file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:696 (April 2015).

#### **§4425. Patient Medical Records and Reporting Requirements**

##### **A. General Provisions**

1. The outpatient abortion facility shall establish and maintain a patient medical record on each patient.

2. The patient medical record shall be:

- a. completely and accurately documented; and
- b. readily available and systematically organized to facilitate the gathering of information.

3. The outpatient abortion facility shall ensure compliance with privacy and confidentiality of patient medical records, including information in a computerized medical record system, in accordance with the Health Insurance Portability and Accountability Act (HIPAA) regulations, and/or all applicable state laws, rules, and regulations.

4. Safeguards shall be established to protect the patient medical records from loss or damage and/or breach of confidentiality in accordance with all applicable state laws, rules, and regulations.

B. Retention of Patient Medical Records. Patient medical records shall be retained by the outpatient abortion facility for a period of not less than seven years from the date of discharge. If the woman is a minor, then the medical record of the minor shall be kept for a minimum of 10 years from the time the minor reaches the age of majority. Patient medical records shall be maintained on the premises for at least one year and shall not be removed except under court orders or subpoenas. Any patient medical record maintained off-site after the first year shall be provided to the department for review no later than 24 hours from the time of the department's request.

NOTE: Refer to R.S. 9:2800.9.

##### **C. Contents of Patient Medical Record**

1. The following minimum data shall be kept on all patients:

- a. identification data;
- b. date of procedure;
- c. medical and social history;
- d. anesthesia and surgical history;
- e. physical examination notes;
- f. chief complaint or diagnosis;
- g. clinical laboratory reports;

- h. pathology reports;
- i. individualized physician's orders;
- j. radiological/ultrasound reports;
- k. consultation reports (when appropriate);
- l. medical and surgical treatment;
- m. progress notes, discharge notes, and discharge summary;
- n. nurses' notes, including, but not limited to, all pertinent observations, treatments, and medications dispensed and/or administered;
- o. medication administration records, including, but not limited to, the date, time, medication, dose, and route;
- p. documentation of any and all prescription drugs dispensed to each patient, including, but not limited to the:
  - i. full name of the patient;
  - ii. name of the prescribing physician;
  - iii. name and strength of the drug;
  - iv. quantity dispensed; and
  - v. date of issue;
- q. signed and dated authorizations, consents, releases, or notices required by all applicable federal, state, and local statutes, laws, ordinances, and department rules and regulations, including but not limited to:
  - i. a signed receipt of *Point of Rescue* pamphlet; and
  - ii. a signed certification form in accordance with applicable state law indicating acknowledged receipt of informational materials concerning psychological impacts, illegal coercion, abuse, and human trafficking;

NOTE: The provisions of this Section requiring a physician or qualified person to provide required printed materials to a woman considering an abortion shall become effective 30 days after the department publishes a notice of the availability of such materials.

- r. operative report;
- s. anesthesia report, including, but not limited to, the date, time, type of anesthesia, dose, and route; and
- t. special procedures reports.

2. Each entry documented in the patient's medical record shall be signed by the physician as appropriate, e.g., attending physician, consulting physician, anesthesiologist, pathologist, etc. Nursing notes and observations shall be signed by the licensed nurse. All entries shall be in writing and contain the date, time, and signature of the individual(s) delivering the patient care and services.

D. Nothing in this Section is intended to preclude the use of automated or centralized computer systems or any other techniques for the storing of medical records, provided the regulations stated herein are met.

E. Other Reports. The outpatient abortion facility shall maintain a daily patient roster of all patients receiving a surgical or chemically induced abortion. Patients may be identified corresponding to the patient's medical record. This daily patient roster shall be retained for a period of three years.

#### F. Reporting Requirements

1. The outpatient abortion facility shall maintain documentation to support that the outpatient abortion facility is compliant with all reporting requirements, including, but not limited to, the induced termination of pregnancy (ITOP) form and other documentation as required by federal, state, and local statutes, laws, ordinances, and department rules and regulations.

2. The outpatient abortion facility shall report in accordance with all applicable state laws for the reporting of crimes against a child that include but are not limited to:

- a. rape;
- b. sexual battery;
- c. incest; and
- d. carnal knowledge of a juvenile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:699 (April 2015).

### **§4427. Quality Assurance and Performance Improvement Program (QAPI)**

A. The outpatient abortion facility shall develop, implement, enforce, maintain, and annually review a written QAPI program subject to approval by the governing body, which puts systems in place to effectively identify issues for which quality monitoring and performance improvement activities are necessary. The QAPI program shall include plans of action to correct identified issues including, but not limited to, monitoring the effect of implemented changes and making necessary revisions to the plan of action.

1. Plans of Action. The outpatient abortion facility shall develop and implement a QAPI plan of action designed to effectively identify issues for which quality monitoring and performance improvement activities are necessary.

2. The QAPI plan of action shall include on a quarterly basis the following:

- a. processes for receiving input regarding the quality of medical and clinical services received;
- b. processes for review of patient medical records to ensure that such are complete and current;
- c. processes for identifying on a quarterly basis the risk factors that affect or may affect the health and safety of the patients of the outpatient abortion facility receiving medical and clinical services. Examples may include, but are not limited to:

i. review and resolution of patient grievances; and

ii. review and resolution of patient/employee incidents involving medication errors and equipment failure;

d. a process to review and develop action plans to resolve all system wide issues identified as a result of the processes above.

3. The QAPI outcomes shall be documented and reported to the administrator in writing for action, as necessary, for any identified systemic problems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:700 (April 2015).

### **Subchapter C. Pre-operative, Intra-operative, and Post-Operative Procedures**

#### **§4431. Screening and Pre-Operative Services**

A. Verification of Pregnancy. The presence of an intrauterine pregnancy shall be verified by the following:

- 1. urine or serum pregnancy test performed on-site; and
- 2. either a detection of fetal heart tones or ultrasonography.

B. Gestational age shall be estimated by the following methods pre-operatively:

1. first date of last menstrual period, if known;
2. pelvic examination; and
3. ultrasonography.

C. Laboratory Tests

1. The laboratory tests listed below shall be performed within 30 days prior to the abortion procedure:

- a. hematocrit or hemoglobin determination; and
- b. Rh Factor status.

2. The results of the laboratory tests as required in §4331.C.1.a-b shall be documented in the patient's medical record.

3. The physician performing the abortion shall document acknowledgement of the results of the laboratory tests in the patient's medical record prior to the abortion procedure.

D. Minors

1. No physician shall perform or induce an abortion upon any pregnant woman who is under the age of 18 years and who is not emancipated judicially or by marriage unless the physician has received the following:

- a. one of the following documents:

(i). a notarized statement, pursuant to applicable state laws, rules, and regulations, signed by either the mother, father, legal guardian, or tutor of the minor declaring that the affiant has been informed that the minor intends to seek an abortion and that the affiant consents to the abortion; or

(ii). a court order pursuant to applicable state laws, rules, and regulations; and

b. a signed, dated, and timed document obtained by the attending physician and/or licensed nurse, before the administration of any type of anesthesia which indicates if any person has or has not compelled the female child to undergo an abortion against her will.

2. All documentation related to consent and coercion shall be maintained in the medical record.

E. Ultrasound Requirements. Except in the case of a medical emergency, consent to an abortion of an unborn child at any stage of gestational development is voluntary and informed only if an obstetric ultrasound is performed in accordance with the provisions of this Section and applicable state laws, rules, and regulations.

1. Qualifications to Perform Ultrasound. The ultrasound shall be performed by the physician who is to perform the abortion or a qualified person who is the physician's agent. For purposes of this Section, "qualified person" means a person having documented evidence that he or she has completed a course in the operation of ultrasound equipment and is in compliance with any other requirements of law regarding the operation of ultrasound equipment.

2. Requirements. At least 24 hours prior to the pregnant woman having any part of an abortion performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion on the pregnant woman, the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the following requirements:

a. perform an obstetric ultrasound on the pregnant woman, offer to simultaneously display the screen which depicts the active ultrasound images so that the pregnant

woman may view them and make audible the fetal heartbeat, if present, in a quality consistent with current medical practice. Nothing in this Section shall be construed to prevent the pregnant woman from not listening to the sounds detected by the fetal heart monitor, or from not viewing the images displayed on the ultrasound screen;

b. provide a simultaneous and objectively accurate oral explanation of what the ultrasound is depicting, in a manner understandable to a layperson, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted, the dimensions of the unborn child, and the presence of cardiac activity if present and viewable, along with the opportunity for the pregnant woman to ask questions;

c. offer the pregnant woman the option of requesting an ultrasound photograph or print of her unborn child of a quality consistent with current standard medical practice that accurately portrays, to the extent feasible, the body of the unborn child including limbs, if present and viewable;

d. from a form that shall be produced and made available by the department, staff will orally read the statement on the form to the pregnant woman in the ultrasound examination room prior to beginning the ultrasound examination, and obtain from the pregnant woman a copy of a completed, signed, and dated form;

e. retain copies of the election form and certification prescribed above. The certification shall be placed in the medical file of the woman and shall be kept by the outpatient abortion facility for a period of not less than seven years. If the woman is a minor, the certification shall be placed in the medical file of the minor and kept for at least ten years from the time the minor reaches the age of majority. The woman's medical files shall be kept confidential as provided by law.

3. Options to view or listen to required medical information shall be in accordance with applicable state laws, rules, and regulations.

a. A pregnant woman may choose not to exercise her option to request an ultrasound photograph print.

b. A pregnant woman may choose not to view the ultrasound images required to be provided to and reviewed with the pregnant woman.

c. A pregnant woman may choose not to listen to the sounds detected by the fetal heart monitor required to be provided to the pregnant woman.

F. Medical Emergencies. Upon a determination by a physician that a medical emergency, as defined pursuant to applicable state law, exists with respect to a pregnant woman, the outpatient abortion facility shall certify in writing the specific medical conditions that constitute the emergency. The certification shall be placed in the medical file of the woman.

G. Information and Informed Consent

1. Oral and Written Information Provided by Physician or Referring Physician

a. At least 24 hours before the abortion the physician who is to perform the abortion or the referring physician shall provide informed consent to the pregnant woman seeking an abortion. The informed consent shall be communicated both orally and in-person, and in writing, and shall be provided in a private room.

b. Documentation. The documentation of all such informed consent provided shall be maintained in the patient's medical record.

c. The informed consent shall also contain language explaining the following information to the pregnant woman seeking an abortion:

i. the option of reviewing and receiving an oral explanation of an obstetric ultrasound image of the unborn child;

ii. that the pregnant woman shall not be required to view or receive an explanation of the obstetric ultrasound images;

iii. that the pregnant woman shall not be penalized if she chooses not to view or receive an explanation of the obstetric ultrasound images;

iv. that the physician shall not be penalized if the pregnant woman chooses not to view or receive an explanation of the obstetric ultrasound images; and

v. inclusion in the patient's printed materials of a comprehensive list, compiled by the department, of facilities that offer obstetric ultrasounds free of charge.

#### 2. Oral Information from a Physician or Qualified Person

a. When an initial contact is made by a person seeking to schedule an abortion for herself, a minor, or other adult woman, regardless of the means of contact, the physician who is to perform the abortion or any qualified person acting on behalf of the physician shall inform the person of the internet address of the department's abortion alternatives and informed consent website which includes links to mental health counseling.

#### 3. Oral Information Provided by Physician, Referring Physician, or Qualified Person

a. At least 24 hours before a scheduled abortion the physician who is to perform the abortion, the referring physician, or a qualified person shall inform the pregnant woman seeking an abortion, orally and in-person that:

i. medical assistance may be available for prenatal care, childbirth, and neonatal care and that more detailed information on the availability of such assistance is contained on the department's website and printed materials;

ii. a pamphlet is available that describes the unborn child and contains a directory of agencies that offer an abortion alternative;

iii. the father of the unborn child is liable to assist in the support of the child, even if he has offered to pay for the abortion. In the case of rape this information may be omitted;

iv. the pregnant woman seeking an abortion is free to withhold or withdraw consent to the abortion at any time before or during the abortion without affecting her right to future care or treatment and without loss of any state or federally funded benefits to which she might otherwise be entitled.

#### 4. Provision of Printed Materials

a. At least 24 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of the printed materials, pursuant to any applicable state laws, rules, and regulations, by the physician who is to perform the abortion, the referring physician, or a qualified person, including but not limited to the following:

i. as a condition for consent to undergoing an elective abortion and, as such to be deemed voluntary and informed, the woman or minor female considering abortion shall be given a copy of the DHH *Point of Rescue* pamphlet by the physician who is to perform the abortion or a qualified person, except in the case of medical emergency as defined by applicable state laws.

NOTE: The provisions of this Section requiring a physician or qualified person to provide required printed materials to a woman considering an abortion shall become effective 30 days after the department publishes a notice of the availability of such materials.

b. If the pregnant woman seeking an abortion is unable to read the materials, the material shall be read to her.

c. If the pregnant woman seeking an abortion asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

#### 5. Certification and Reporting

a. Prior to the abortion, the outpatient abortion facility shall ensure the pregnant woman seeking an abortion has certified, in writing on a form provided by the department that the information and materials required were provided at least 24 hours prior to the abortion. This form shall be maintained in the woman's medical record.

b. Prior to performing the abortion, the physician who is to perform the abortion or his agent receives a copy of the written certification.

c. The pregnant woman seeking an abortion is not required to pay any amount for the abortion procedures until the 24-hour period has expired.

6. Reporting Requirements. Any physician who has provided the information and materials to any woman in accordance with the requirements of this Section shall provide to the department:

a. with respect to a woman upon whom an abortion is performed, all information as required by applicable state laws, rules, and regulations as well as the date upon which the information and materials required to be provided under this Section were provided, as well as an executed copy of the certification form. This form shall be maintained in the woman's medical record;

b. with respect to any woman to whom the printed and oral information and materials have been provided pursuant to applicable state laws, rules, and regulations, but upon whom the physician has not performed an abortion, the name and address of the facility where the required information was provided and if executed by the woman, a copy of the certification form required. This form shall be maintained in the woman's medical record.

7. Information Provided by the Physician Performing or Inducing an Abortion. On the date the abortion is performed or induced, a physician performing or inducing the abortion shall provide the pregnant woman with all of the following before the abortion is performed or induced:

a. a telephone number by which the pregnant woman may reach the physician, or other health care personnel employed by the physician or facility at which the abortion was performed or induced, who has 24 hours per day access to the woman's relevant medical records so that the woman may request assistance related to any complication that arises from the performance or induction of the abortion, or to ask health-related questions regarding the abortion; and

b. the name and telephone number of the hospital nearest to the home of the pregnant woman at which an emergency arising from the abortion would be treated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:700 (April 2015).

#### **§4433. Drug or Chemically Induced Abortion**

A. When any drug or chemical is used for the purpose of inducing an abortion as defined in R.S. 40:1299.35.1, the physician who prescribed the drug or chemical shall be in the same room and in the physical presence of the pregnant woman when the drug or chemical is initially administered, dispensed, or otherwise provided to the pregnant woman.

B. The drug or chemical shall not be administered, dispensed, or otherwise provided to the pregnant woman by a physician or any person acting under the physician's direction unless the physician has obtained the voluntary and informed consent of the pregnant woman pursuant to the provisions of state laws, rules and regulations and the requirements set forth in this Section.

C. If a physician prescribes, dispenses, administers, or provides any drug or chemical to a pregnant woman for the purpose of inducing an abortion as defined in R.S. 40:1299.35.1, the physician shall report the abortion to the Department of Health and Hospitals in accordance with applicable state laws, rules, and regulations, including R.S. 40:1299.35.10.

D. Documentation shall be recorded as to the date, time, method and name and signature of the physician who initially administered, dispensed, or otherwise provided the drug or chemical to the pregnant woman. This documentation shall be maintained in the patient's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:703 (April 2015).

#### **§4435. Intra-operative Procedures**

A. The outpatient abortion facility shall ensure that emergency medical equipment and supplies as required by the governing body, medical director and medical staff are available for intra-operative care and shall include, but are not limited to:

1. surgical or gynecologic table;
2. surgical instrumentation;
3. emergency drugs for stabilizing and/or treating medical and surgical complications as approved by the medical director;
4. oxygen;
5. intravenous fluids; and
6. sterile dressing supplies.

B. The outpatient abortion facility shall ensure that the medical equipment required for an abortion shall be maintained and immediately available to the physician in the procedure and/or post-anesthesia recovery area to provide emergency medical care and treatment.

C. During the abortion procedure, the patient shall be assessed and monitored by a licensed nurse for the following: level of consciousness, respiratory status, cardio-vascular status, and any potential adverse outcomes related

to the abortion procedure such as adverse drug reactions, uncontrolled or excessive bleeding, etc. The results of this assessment shall be documented in the patient's medical record by the licensed nurse.

D. Immediately following the abortion procedure and prior to transfer to post-anesthesia recovery area, the patient shall be assessed and monitored by a licensed nurse for the following: level of consciousness, respiratory status, cardio-vascular status, and any potential adverse outcomes related to the abortion procedure. The results of this assessment shall be documented in the patient's medical record by the licensed nurse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:703 (April 2015).

#### **§4437. Post-Operative Care, Procedures, and Discharge**

##### **A. Post-Operative Care and Procedures**

1. The outpatient abortion facility shall have immediately available a supply of emergency drugs for stabilizing and/or treating medical and surgical complications for post-operative care on the licensed premises.

2. The patient's recovery shall be supervised by a licensed physician or a licensed nurse trained in post-operative care.

3. If general anesthesia is administered during the abortion procedure, the outpatient abortion facility shall have licensed nursing personnel trained in post-anesthesia care.

4. Upon completion of an abortion procedure, the physician shall immediately perform a gross examination of the uterine contents and shall document the findings in the patient's medical record. If no products of conception are visible, the physician shall assess the patient for risk of complications of an incomplete abortion or ectopic pregnancy.

5. Upon admission to the post-anesthesia recovery area, the patient shall be assessed by the licensed nurse for the following: level of consciousness, respiratory status, cardio-vascular status, pain level, bleeding, any potential outcomes related to the abortion procedure and any other medically appropriate assessments. The results of this assessment shall be documented by the licensed nurse in the patient's medical record.

6. A patient shall not be left unattended in the post-anesthesia recovery area.

7. RH immunoglobulin administration shall be offered to the woman who is Rh-negative and such shall be documented in the patient's medical record. If Rh immunoglobulin is not administered in the facility, one of the following is required:

a. informed waiver signed by a patient who refuses RH immunoglobulin; or

b. documentation of other arrangements for administration of RH Immunoglobulin.

##### **B. Discharge Procedures**

1. The patient shall be given verbal and written post-operative instructions for follow-up care. Such instructions given or provided by the physician performing or inducing the abortion shall include the telephone number by which the pregnant woman may reach the physician, or other health

care personnel employed by the physician, or facility at which the abortion was performed or induced, who has 24 hours per day access to the woman's relevant medical records so that the woman may request assistance related to any complication that arises from the performance or induction of the abortion, or to ask health-related questions regarding the abortion.

2. The patient shall also be given or provided, by the physician performing or inducing the abortion, the name and telephone number of the hospital nearest to the home of the pregnant woman at which an emergency arising from the abortion would be treated.

3. A member of the medical staff shall remain on the licensed premises until each patient is assessed to be awake, alert, and medically stable prior to discharge.

4. A copy of the discharge instructions signed by the patient and the physician shall be maintained in the patient's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:703 (April 2015).

#### **§4439. Anesthesia Services**

A. Subject to the approval of the medical director, the outpatient abortion facility shall develop, implement, monitor, enforce, and annually review written policies and procedures governing the preparation of and administration of drugs relating to the types of anesthesia administered during the abortion procedure.

B. Local anesthesia, nitrous oxide, intramuscular, oral, and intravenous sedation shall be administered by the physician performing the abortion or by licensed nursing staff who have been deemed competent to administer sedation under the orders and supervision of the physician and pursuant to their scope of practice.

C. The physician performing the abortion shall be present on the licensed premises prior to and during the administration of all types of anesthesia.

D. General anesthesia, if used, shall be administered by an anesthesiologist or certified registered nurse-anesthetist (CRNA) who is under the supervision of the physician performing the abortion.

E. If general anesthesia is administered, the outpatient abortion facility shall ensure that professional staff, trained and deemed competent to provide post-anesthesia care, shall be present on-site to meet the needs of the patient.

F. If general anesthesia is administered, the outpatient abortion facility shall ensure that emergency medical equipment related to the delivery of general anesthesia shall be available on the premises.

G. A physician shall be present on the licensed premises during the post-anesthesia recovery period until the patient is fully reacted and stable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:704 (April 2015).

### **Subchapter D. Physical Environment**

#### **§4445. General Requirements**

##### **A. General Provisions**

1. The outpatient abortion facility shall be designed, constructed, equipped, and maintained to protect the health and safety of patients, personnel, and the public at all times.

2. The outpatient abortion facility shall meet the provisions for physical environment under this Section, unless otherwise noted herein.

3. For the purposes of this Section, major renovations are defined as such renovations that affect the alteration to the functionality or original design of the facility's construction. Painting walls, re-tiling floors, installation of carpet, repairing roof damage or reroofing are not considered to be major renovations for purposes of this Section.

4. A separate waiting area shall be provided that is sufficient in size to provide seating space for patients, staff, and visitors of the patient.

5. Toilet facilities for patients, staff, and visitors shall be installed and maintained in accordance with the requirements of *LAC Title 51, Public Health—Sanitary Code*.

a. Every toilet room shall contain at least one water closet and one lavatory. Such toilet facilities shall be provided with ventilation in accordance with the requirements of *LAC Title 51, Public Health—Sanitary Code*.

b. Hot and cold water delivered through a mixing faucet, soap, and mechanical hand drying devices and/or disposable paper towels shall be provided at all hand washing lavatories/stations.

c. Showers or shower/tub combinations, if provided, shall meet the requirements of *LAC Title 51, Public Health—Sanitary Code*.

6. Additional General Provisions. For outpatient abortion facilities that receive their initial outpatient abortion license after the effective date of the promulgation of this Rule, receive plan review approval for major renovations after the effective date of the promulgation of this Rule or change their geographical address after the effective date of the promulgation of this Rule, the following additional general provisions shall apply:

a. flooring in all patient areas shall be readily cleanable, monolithic and joint free, and slip-resistant;

b. wall finishes in all patient areas shall be smooth, moisture resistant, washable, and free of fissures, open joints, or crevices that may retain or permit passage of dirt particles; and

c. wall bases in all patient areas shall be monolithic and coved with the floor, tightly sealed to the wall, and constructed without voids.

B. Signage. The outpatient abortion facility shall provide:

1. an exterior sign that can be viewed by the public. The sign shall contain, at a minimum, the doing business as name of the facility as it appears on the outpatient abortion facility license issued by the department;



2. clearly identifiable and distinguishable signs for outpatient abortion facilities operating within another facility which shall comply with the provisions of applicable state laws, rules, and regulations.

C. Procedure Room

1. Abortion procedures shall be performed in a segregated procedure room, removed from general traffic lines with a minimum clear floor area of 120 square feet, exclusive of vestibule, toilets or closets.

2. There shall be a hand-washing station within each procedure room and within each post-anesthesia recovery area. Fixtures shall not encroach upon any required egress path or other required clear dimension.

D. Post-Anesthesia Recovery Area

1. The outpatient abortion facility shall have a separate post-anesthesia recovery area with a minimum clear recovery area with a minimum clear area of 2 feet, 6 inches around the three sides of each stretcher or lounge chair for work and circulation.

2. The outpatient abortion facility shall have a nurse's station equipped with a countertop, space for supplies, provisions for charting, and a communication system. The nursing station shall be arranged to provide for direct visual observation of all traffic into the recovery area.

E. Equipment and Supply Storage Area. For outpatient abortion facilities that receive their initial outpatient abortion license after the effective date of the promulgation of this Rule, receive plan review approval for major renovations after the effective date of the promulgation of this Rule, or change their geographical address after the effective date of the promulgation of this Rule, the outpatient abortion facility shall have:

1. a soiled utility room which contains a utility sink, a work counter, a hand washing station, waste receptacle(s), and a space for soiled linen or equipment;

a. a designated separate space shall be provided for soiled materials storage;

b. soiled materials shall not be stored or transported through the clean laundry area;

2. a clean utility room which is used for clean or sterile supplies;

3. an equipment and supply storage room with sufficient floor space for equipment and supplies used in the procedure room which shall not encroach upon any required egress path or other required clear dimension;

4. at least one stretcher and one wheelchair for patient use; and

5. sufficient pathway to accommodate the usage of a stretcher and a wheelchair.

F. If the outpatient abortion facility maintains an in-house laundry, the areas shall be designed in accordance with infection control standards and *LAC Title 51, Public Health—Sanitary Code*, as applicable.

G. Forced Abortion Prevention Signage. Each outpatient abortion facility shall ensure a sign is obtained from the department in accordance with the Forced Abortion Prevention Sign Act.

1. Display. The sign shall be posted on the licensed premises and shall be clearly visible to patients. The sign provided shall be conspicuously posted in each patient admission area, waiting room, and patient consultation room used by patients on whom abortions are performed, induced,

prescribed for, or who are provided with the means for an abortion.

H. National Human Trafficking Resource Center Hotline. Each outpatient abortion facility shall post information regarding the National Human Trafficking Resource Center Hotline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:704 (April 2015).

**§4447. Infection Control**

A. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review its written infection control program. The purpose of this program shall seek to minimize infections and communicable diseases through prevention, investigation, and reporting of infections. This program shall include all contracted services.

B. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review, with the approval of the medical director, written policies and procedures for preventing, identifying, reporting, investigating, controlling, and immediately implementing corrective actions relative to infections and communicable diseases of patients and personnel. At a minimum, the policies shall address:

1. alcohol based hand rub and hand hygiene;

2. use of all types of gloves;

3. decontamination of equipment between each patient use, including, but not limited to, chairs and procedure room tables;

4. linen cleaning, if applicable;

5. waste management including, but not limited to, the requirements of Part XXVII of *LAC Title 51, Public Health—Sanitary Code*;

6. environmental cleaning;

7. reporting, investigating, and monitoring of surgical infections;

8. sterilization procedures and processes, if applicable;

9. single use devices;

10. disinfecting procedures and processes; and

11. breaches of infection control practices.

C. Supplies shall not be reused if labeled for single use.

D. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review written policies and procedures which require immediate reporting of the suspected or confirmed diagnosis of a communicable disease pursuant to applicable federal, state and local rules, laws, regulations and ordinance.

E. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review a written waste management program that identifies and controls wastes and hazardous materials to prevent contamination and spread of infection within the facility. The program shall comply with all applicable laws and regulations governing wastes and hazardous materials and the safe handling of these materials.

F. There shall be a separate sink for cleaning instruments and disposal of liquid waste.

G. The outpatient abortion facility shall develop, implement, and enforce/maintain written policies and

procedures to ensure items are contained and handled during the sterilization process to assure sterility is not compromised prior to use.

H. After sterilization, instruments shall be stored in a designated clean area so that sterility is not compromised.

I. Sterile packages shall be inspected for integrity and compromised packages shall be reprocessed before use in accordance with manufacturer's recommendations.

J. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review written policies and procedures governing the following:

1. the handling, processing, storing, and transporting of clean and dirty laundry;

2. special cleaning and decontamination processes are employed for contaminated linens, if an in-house laundry is maintained on the licensed premises; and

3. housekeeping services maintain a safe and clean environment.

K. Housekeeping supplies shall be provided to adequately maintain the licensed premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:705 (April 2015).

#### **§4449. Laboratory Services**

A. The outpatient abortion facility shall have laboratory services available to meet the needs of its patients.

B. The outpatient abortion facility shall maintain a clinical laboratory improvement amendment (CLIA) certificate for the laboratory services provided on the licensed premises.

C. The outpatient abortion facility shall ensure that all contracted laboratory services are provided by a CLIA certified laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:706 (April 2015).

#### **§4451. Pharmaceutical Services**

A. All outpatient abortion facilities shall have a controlled dangerous substance (CDS) license issued by the Louisiana Board of Pharmacy and a Drug Enforcement Agency (DEA) registration in accordance with applicable state and federal laws.

B. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review written policies and procedures that govern the safe storage, prescribing, dispensing, preparing and administering of drugs and biologicals on the licensed premises.

C. Storage Areas. The outpatient abortion facility shall provide a designated secure storage area for storing drugs and biologicals.

1. The designated storage area shall be constructed and maintained to prevent unauthorized access.

2. The designated storage area shall adhere to the manufacturer's suggested recommendations for storage of drugs.

3. Locked areas that are used to store medications including controlled substances, shall conform to all applicable federal and state laws, and the outpatient abortion facility's policies and procedures.

D. The outpatient abortion facility shall maintain written records documenting the ordering, receiving, dispensing, and administering of drugs.

E. The outpatient abortion facility shall maintain written records documenting the disposing of unused drugs.

F. The outpatient abortion facility shall maintain written documentation of all drugs prescribed and/or dispensed to each patient, including, but not limited to the:

1. full name of the patient;

2. name of the prescribing and/or dispensing physician;

3. name and strength of the drug;

4. quantity prescribed and/or dispensed; and

5. date of issue.

G. Preparation and Administration of Drugs. The outpatient abortion facility shall develop, implement, enforce, monitor, and review annually written policies and procedures governing the preparation of drugs and biologicals.

1. The outpatient abortion facility shall ensure that all drugs and biologicals are prepared and administered pursuant to an order from an individual, employed or under contractual agreement, who has prescriptive authority in accordance with applicable state laws. Each order shall be in writing, patient specific, dated, timed, and signed by that individual. A copy of such orders shall be maintained in each, individual patient medical record.

H. The outpatient abortion facility shall order and maintain a supply of emergency drugs for stabilizing and/or treating medical and surgical complications on the licensed premises as authorized by the medical director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:706 (April 2015).

#### **§4453. Inactivation of License due to a Declared Disaster or Emergency**

A. An outpatient abortion facility located in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with applicable state laws, may seek to inactivate its license for a period not to exceed one year, provided that the facility:

1. submits written notification to HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

- a. the facility has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with applicable state law;

- b. the facility intends to resume operation as an outpatient abortion facility in the same service area;

- c. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services; and

- d. includes an attestation that all clients have been discharged or transferred to another facility in accordance with the provisions of this Chapter;

2. resumes operating as an outpatient abortion facility in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with state law;

3. continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil fines; and

4. continues to submit required documentation and information to the department.

B. Upon receiving a completed request to inactivate an outpatient abortion facility license, the department shall issue a notice of inactivation of license to the facility.

C. In order to obtain license reinstatement, an outpatient abortion facility with a department-issued notice of inactivation of license shall:

1. submit a written license reinstatement request to HSS 60 days prior to the anticipated date of reopening. The written request shall include:

a. the anticipated date of opening, and a request to schedule a licensing survey;

b. a completed licensing application, plan review approval, if applicable, and other required documents with licensing fees, if applicable; and

c. written approvals for occupancy from OSFM/Live Safety Code and OPH recommendation for license.

D. Upon receiving a completed written request to reinstate an outpatient abortion facility license and other required documentation, the department shall conduct a licensing survey.

E. If the facility meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the facility's license.

F. During the period of inactivation, the department prohibits a change of ownership (CHOW) in the outpatient abortion facility.

G. The provisions of this Section shall not apply to an outpatient abortion facility which has voluntarily surrendered its license.

H. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the facility's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:706 (April 2015).

Kathy H. Kliebert  
Secretary

1504#068

#### **RULE**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

#### **Nursing Facilities Per Diem Rate Reduction (LAC 50:II.20005)**

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:II.20005 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part II. Nursing Facilities**

#### **Subpart 5. Reimbursement**

#### **Chapter 200. Reimbursement Methodology**

#### **§20005. Rate Determination**

**[Formerly LAC 50:VII.1305]**

A. - O. ...

P. Effective for dates of service on or after July 1, 2013, the per diem rate paid to non-state nursing facilities, excluding the provider fee, shall be reduced by \$18.90 of the rate in effect on June 30, 2013 until such time that the rate is rebased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010), repromulgated LR 36:520 (March 2010), amended LR 36:1556 (July 2010), LR 36:1782 (August 2010), LR 36:2566 (November 2010), LR 37:092 (March 2011), LR 37:1174 (April 2011), LR 37:2631 (September 2011), LR 38:1241 (May 2012), LR 39:1286 (May 2013), LR 39:3097, (November 2013), LR 41:707 (April 2015).

Kathy H. Kliebert  
Secretary

1504#069

#### **RULE**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

#### **Rehabilitation Clinics Physical and Occupational Therapies Reimbursement Rate Increase (LAC 50:XI.301 and 303)**

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XI.301 and §303 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XI. Clinic Services**

#### **Subpart 1. Rehabilitation Clinics**

#### **Chapter 3. Reimbursement**

#### **§301. Reimbursement Methodology**

A. The Medicaid Program provides reimbursement for physical therapy, occupational therapy and speech therapy rendered in rehabilitation clinics to recipients under the age of 21.

B. ...

C. Effective for dates of service on or after February 13, 2014, reimbursement for physical and occupational therapy services shall be 85 percent of the 2013 Medicare published

rate. There shall be no automatic enhanced rate adjustment for physical and occupational therapy services.

D. Speech/language therapy services shall continue to be reimbursed at the flat fee in place as of February 13, 2014 and in accordance with the Medicaid published fee schedule for speech/language therapy services provided to recipients under the age of 21 in rehabilitation clinics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1021 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1533 (August 2014), LR 41:707 (April 2015).

**§303. Reimbursement (Ages 0 up to 3)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1034 (May 2004), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:707 (April 2015).

Kathy H. Kliebert  
Secretary

1504#070

**RULE**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

School Based Health Centers  
Rehabilitation Services  
Reimbursement Rate Increase  
(LAC 50:XV.9141)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.9141 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment**

**Chapter 91. School Based Health Centers**

**Subchapter E. Reimbursement**

**§9141. Reimbursement Methodology**

A. - B.2. ...

C. Effective for dates of service on or after February 13, 2014, reimbursement for physical and occupational therapy services shall be 85 percent of the 2013 Medicare published rate.

D. Speech/language therapy services shall continue to be reimbursed at the flat fee in place as of February 13, 2014 and in accordance with the Medicaid published fee schedule for speech/language therapy services provided in school based health centers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1420 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:708 (April 2015).

Kathy H. Kliebert  
Secretary

1504#071

**RULE**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

State Children's Health Insurance Program  
Coverage of Prenatal Care Services  
(LAC 50:III.20301 and 20303)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:III.20301 and 20303 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part III. Eligibility**

**Subpart 11. State Children's Health Insurance Program**

**Chapter 203. LaCHIP Phase IV—Prenatal Care Services**

**§20301. General Provisions**

A. ...

B. Effective December 31, 2013, coverage of SCHIP prenatal care services shall be expanded to include any pregnant woman with income between 138 percent and 214 percent of the FPL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:72 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:708 (April 2015).

**§20303. Eligibility Criteria**

A. - B.1. ...

C. Recipients must have family income at or below 214 percent of the FPL.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:72 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:708 (April 2015).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert  
Secretary

1504#072

## **RULE**

### **Department of Health and Hospitals Licensed Professional Counselors Board of Examiners**

PLPC and PLMFT Regulations; Fee Structure  
Adjustments/Changes (LAC 46:LX.Chapters 1-47)

In accordance with the Louisiana Administrative Procedures Act (R.S. 49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners has amended existing rules to implement Act 484 of the 2014 Regular Session of the Louisiana Legislature and changes associated with Act 173 if the 2013 Regular Session of the Louisiana Legislature and Act 736 of the 2014 Regular Session of the Louisiana Legislature.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LX. Licensed Professional Counselors Board of Examiners**

##### **Subpart 1. Licensed Professional Counselors**

##### **Chapter 1. General Provisions**

###### **§101. Statutory Authority**

A. The Louisiana Licensed Professional Counselors Board of Examiners was initially created and empowered by Act 892 of the 1987 Legislature to provide regulation of the practice of mental health counseling and provide for the regulation of the use of the title "licensed professional counselor" (R.S. 37:1102). Subsequently Act 1195 of 2001 empowered the board to provide regulation of marriage and family therapy and the use of the title "licensed marriage and family therapist" [R.S. 37:1102(B)]. Act 484 of the 2014 Legislative Session empowered the board to provide regulation of the practice and use of the titles "provisional licensed professional counselor" and "provisional licensed marriage and family therapist". Therefore, the Louisiana Licensed Professional Counselors Board of Examiners establishes the rules and regulations herein pursuant to the authority granted to, and imposed upon said board under the provisions of the *Louisiana Revised Statutes*, title 37, chapter 13, R.S. 37:1101-1123.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:128 (February 2003), amended LR 29:2782 (December 2003), LR 41:709 (April 2015).

###### **§103. Description of Organization**

A. ...

1. The licensed professional counselor board shall establish a marriage and family therapy advisory committee, which shall consist of the four board members appointed by the governor from the list of names submitted by the

executive board of the Louisiana Association for Marriage and Family Therapy.

2. - 3.a. ...

b. examine and qualify all applicants for licensure or provisional licensure as marriage and family therapists and recommend to the board each successful applicant for licensure or provisional licensure, attesting to the applicant's professional qualifications to be a licensed or a provisionally licensed marriage and family therapist;

c. develop for the board application forms for licensure and provisional licensure pursuant to this Chapter; and

d. maintain complete records of all meetings, proceedings, and hearings conducted by the advisory committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:128 (February 2003), amended LR 29:2782 (December 2003), LR 39:1782 (July 2013), LR 41:709 (April 2015).

###### **§111. Notification of Change**

A. Every licensed or provisional licensed professional counselor and every licensed or provisional licensed marriage and family therapist shall immediately notify in writing the Licensed Professional Counselors Board of Examiners of any and all changes in name, address, and phone number. Failure to comply with this rule within 30 days of change will result in a fine as set forth in §901.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 26:493 (March 2000), amended LR 29:129 (February 2003), LR 41:709 (April 2015).

##### **Chapter 3. Board Meetings, Procedures, Records, Powers and Duties**

###### **§307. Meetings**

A. The board shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the board. The chair will call meetings after consultation with board members or by a majority of members voting at a regular meeting. Reasonable notice of all board meetings will be given by posting the meeting place and time, seven days before the meeting, on the door of the office of the board and in two places in the building housing the office of the board. The board may examine, approve, revoke, suspend, and renew the license or provisional license of applicants and shall review applications at least once a year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:82 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003), 39:1782 (July 2013), LR 41:709 (April 2015).

###### **§309. Quorum**

A. Six members of the board shall constitute a quorum of the board at any meeting or hearing for the transaction of business and may examine, approve, and renew the license or provisional license of applicants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003), amended LR 29:2783 (December 2003), LR 41:709 (April 2015).

### **§313. Code of Ethics**

A. The board has adopted the *Code of Ethics* of the American Counseling Association for Licensed and Provisional Licensed Professional Counselors as specified in R.S. 37:1105(D) and may adopt any revisions or additions deemed appropriate or necessary by the board. Applicable ethics requirements for licensed marriage and family therapists and provisional licensed marriage and family therapists are addressed at §4301 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 22:101 (February 1996), LR 29:130 (February 2003), LR 41:710 (April 2015).

### **§315. Records of Proceedings**

A. The board shall keep a record of its proceedings including applicant examinations, a register of applicants for licenses, and a register of licensed and provisionally licensed professional counselors which shall be made available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:130 (February 2003), LR 41:710 (April 2015).

## **Chapter 5. License and Practice of Counseling**

### **§501. License of Title and Practice**

A. As stated in R.S. 37:1111(A), no person shall assume or use the title or designation "licensed professional counselor" or "provisional licensed professional counselor" or engage in the practice of mental health counseling unless the person possesses a valid license issued by the board under the authority of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:130 (February 2003), LR 39:1782 (July 2013), LR 41:710 (April 2015).

### **§503. Definitions for Licensed Professional Counselors and Provisional Licensed Professional Counselors**

A. For purposes of this rule, the following definitions will apply.

*Active Supervision*—the process by which a supervisee receives one hour of face-to-face supervision with his/her board-approved supervisor for every 20 hours of direct client contact or at least once every three-month period.

*Board*—the Louisiana Licensed Professional Counselors Board of Examiners.

*Licensed Professional Counselor*—any fully licensed person (i.e. one who may practice independently as specified in R.S. 37:1107(A)) who holds oneself out to the public for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional counselor" or any similar term, and who offers to render professional mental health counseling/psychotherapy services denoting a client-counselor relationship in which the counselor assumes the responsibility for knowledge, skill, and ethical consideration needed to assist individuals, groups, organizations, or the general public, and who implies that he/she is licensed to practice mental health counseling.

*Licensee*—an individual holding either a full or provisional license issued by the Louisiana Licensed Professional Counselors Board of Examiners. All *licensees* must accurately identify themselves as fully licensed (i.e., licensed) or provisionally licensed.

*Mental Health Counseling/Psychotherapy Services*—rendering or offering prevention, assessment, diagnosis, and treatment, which includes psychotherapy of mental, emotional, behavioral, and addiction disorders to individuals, groups, organizations, or the general public by a licensed or provisional licensed professional counselor which is consistent with his/her professional training as prescribed by R.S. 37:1107(A)(8), and *Code of Ethics*/behavior involving the application of principles, methods, or procedures of the mental health counseling profession. However, nothing in this Chapter shall be construed to authorize any person licensed or provisionally licensed hereunder to administer or interpret tests in accordance with the provision of R.S. 37:2352(5), except as provided by LAC 46:LXIII.1702.E, or engage in the practice of psychology or to prescribe, either orally or in writing, distribute, dispense, or administer any medications.

*Practice of Mental Health Counseling/Psychotherapy*—rendering or offering prevention, assessment, diagnosis, and treatment, which includes psychotherapy of mental, emotional, behavioral, and addiction disorders to individuals, groups, organizations, or the general public by a licensed or provisional licensed professional counselor, which is consistent with his/her professional training as prescribed by R.S. 37:1107(A)(8), and *Code of Ethics*/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which includes but is not limited to:

a. - e.ii. ...

iii. Appraisals done within the practice of mental health counseling must be performed in accordance with the requirements of the *Louisiana Administrative Code*, Title 46, Part LX, Chapter 21, Code of Conduct for Licensed Professional Counselors and Provisional Licensed Professional Counselors. A licensed professional counselor must be privileged by this board to utilize formal appraisal instruments and shall limit such use to those areas heretofore mentioned in this Chapter. A licensed professional counselor who wishes to be board privileged to utilize formal appraisal instruments in the appraisal of individuals shall additionally furnish this board satisfactory evidence of formal graduate training in statistics, sampling theory, test construction, test and measurements and individual differences and must

renew this privileging designation every two years (as defined in Chapter 7). Formal training shall include a practicum and supervised practice with appraisal instruments.

f. - g. ...

h. *Supervision*—the process as defined in Chapter 7, §705 whereby a board-approved supervisor assists a provisional licensed professional counselor in developing expertise in the use of mental health counseling/psychotherapeutic practices.

i. ...

j. Repealed.

k. *Internet Counseling*—mental health services delivered over the internet are rendered where the patient/client is situated. All counselors/therapists serving Louisiana residents via internet counseling must be fully licensed in Louisiana and must adhere to all applicable state laws relative to the practice of mental health counseling. R.S. 37:1111 prohibits any person from engaging in the practice of mental health counseling in Louisiana unless he/she possesses a full and valid license issued by the Louisiana LPC Board. No individuals holding a provisional license may engage in internet counseling.

*Provisional Licensed Professional Counselor*—any person by title or description of services incorporating the words "provisional licensed professional counselor" and who, under board-approved supervision (i.e. may not practice independently), renders professional mental health counseling/psychotherapy services denoting a client-counselor relationship in which the licensee assumes the responsibility for knowledge, skill, and ethical consideration needed to assist individuals, groups, organizations, or the general public, and who implies that he/she is provisionally licensed to practice mental health counseling.

*Supervisee*—a provisional licensed professional counselor under the active supervision of his/her board-approved supervisor.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:302 (April 1990), LR 18:51 (January, 1992), LR 22:101 (February 1996), LR 24:437 (March 1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:130 (February 2003), LR 33:2654 (December 2007), LR 39:1783 (July 2013), LR 41:710 (April 2015).

## **§505. Serious Mental Illnesses**

A. ...

1. *Mental Health Counseling/Psychotherapy Services*—rendering or offering prevention, assessment, diagnosis, and treatment, which include psychotherapy, of mental, emotional, behavioral, and addiction disorders to individuals, groups, organizations, or the general public by a licensee, which is consistent with his/her professional training as prescribed by R.S. 37:1107(A)(8), and *Code of Ethics*/behavior involving the application of principles, methods, or procedures of the mental health counseling profession.

2. However, a licensee may not assess, diagnose, or provide treatment to any individual suffering from a serious mental illness when medication may be indicated, unless the

licensee consults and collaborates with a practitioner who is licensed or holds a permit with the Louisiana state Board of Medical Examiners or an advanced practice registered nurse licensed by the Louisiana state Board of Nursing who is certified as a psychiatric nurse practitioner.

B. *Applicability.* The requirement for collaboration and consultation set forth above shall apply only if any of the following conditions are assessed, diagnosed, or treated by the licensee:

1. - 12. ...

C. *Definitions*

1. - 2, *Medication is Indicated*, i. ...

ii. when the licensee, client, or legal guardian believes that the use of prescribed psychiatric medication may facilitate treatment goals and improve client functioning.

3. As used herein:

*consultation and collaboration*—may be specific or general in nature.

i. *Specific Consultation and Collaboration.* When medication is indicated for clients who have been diagnosed with a serious mental illness and if the client assents to consultation, the licensee must attempt to consult with the client's practitioner within a reasonable time after receiving the consent for the purpose of communicating the diagnosis and plan of care.

(a). If the licensee's attempts to consult directly with the practitioner are not successful, the licensee must notify the practitioner within a reasonable time that he or she is providing services to the client. Also, the licensee must document in the client's file the date of client consent, the date of consultation, or, if attempts to consult did not succeed, the date and manner of notification to the practitioner. The licensee will inform the client of the inability to consult directly with the practitioner and will discuss and document additional options with the client, including that of general *consultation and collaboration*. The licensee will provide information to the practitioner regarding client progress as conditions warrant. *Consultation and collaboration*, for purposes of these rules and otherwise, shall not be construed as supervision. Further, *consultation and collaboration* does not include the transfer between the consulting professionals of responsibility for the client's care or the ongoing management of the client's presenting problem(s).

(b). If attempts to consult directly with a practitioner for a specific consultation are successful, the licensee must document in the client's file the information obtained in the specific consultation. The licensee will provide information to the practitioner regarding client progress as conditions warrant.

ii. *General Consultation and Collaboration.* When medication is indicated for clients who have been diagnosed with a serious mental illness and when the client does not assent to a specific consultation, the licensee must attempt to consult with a practitioner within a reasonable time for a general consultation without releasing any identifying information about the client.

(a). If the licensee's attempts to consult directly with a practitioner are not successful, the licensee must document in the client's file the date of client refusal for consent to consult, the date of general consultation, or if

attempts to consult did not succeed, the date and manner of notification to a practitioner.

(b). If attempts to consult directly with a practitioner for a general consultation are successful, the licensee must document in the client's file the information obtained in the general consultation. The licensee will provide general information to the practitioner regarding client progress as conditions warrant.

iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1105(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 39:1784 (July 2013), amended LR 41:711 (April 2015).

## **Chapter 6. Application, Practice, and Renewal Requirements for Provisional Licensed Professional Counselors**

### **§601. General Provisions**

A. Pursuant to Act 484 of the 2014 Regular Legislative Session and effective May 1, 2015, an individual previously registered as a counselor intern with the Louisiana Licensed Professional Counselors Board of Examiners and under active board-approved supervision will be issued a provisional license as a provisional licensed professional counselor and subject to R.S. 37:1101-1123 and board rules herein.

1. Any counselor intern who has surpassed their seven-year registration period, with the exception of those granted an extension by the board, must reapply to the board as a provisional licensed professional counselor under current law and board rules in order to practice mental health counseling.

2. Counselor interns granted an extension beyond May 1, 2015 will be issued a provisional license. Such provisional license will become invalid upon expiration of the board granted extension. The individual must then apply under current law and board rules for provisional licensure as a provisional licensed professional counselor or for licensure as a licensed professional counselor in order to practice mental health counseling.

B. The board shall provisionally license to practice all persons who present satisfactory evidence of qualifications as specified in these rules and regulations of the board. No provisional license shall be denied any applicant based upon the applicant's:

1. age;
2. culture;
3. disability;
4. ethnicity;
5. race;
6. religion/spirituality;
7. gender;
8. gender identity;
9. sexual orientation;
10. marital status/partnership;
11. language preference;
12. socioeconomic status; or
13. any basis proscribed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:712 (April 2015).

### **§603. Provisional Licensed Professional Counselors Licensing Requirements**

A. The board shall issue a provisional license to each provisional licensed professional counselor applicant who files an application upon a form designated by the board and in such a manner as the board prescribes, accompanied by such fee required by R.S. 37:1106 and who furnishes satisfactory evidence to the board that he/she:

1. is at least 21 years of age;
2. is of good moral character;
3. is not in violation of any of the provisions of R.S. 37:1101-1123 and the rules and regulations adopted herein;
4. has received a graduate degree, as defined in Chapter 5, the substance of which is professional mental health counseling in content from a regionally-accredited institution of higher education offering a master's and/or doctoral program in counseling that is approved by the board and has accumulated at least 48 graduate credit hours as part of the graduate degree plan containing the eight required areas, the supervised mental health practicum and supervised internship in mental health counseling (as defined in Chapter 5). Applicants may apply post-masters counseling courses towards licensure if their degree program consisted of less than 48 hours. All post-masters counseling courses must be completed with a grade no lower than C. All field experience courses must be completed with a grade of A, B, or P as specified in Chapter 5, Section 503(A)(a)(i)(ii). Beginning September 1, 2015, all applicants whose academic background has not been previously approved by the board, must have accumulated at least 60 graduate credit hours as part of the graduate degree plan containing the eight required areas, the supervised mental health practicum and supervised internship in mental health counseling (as defined in Chapter 5). Applicants may apply post-masters counseling courses towards licensure if their degree program consisted of less than 60 hours;

a. to be eligible for supervision as a provisional licensed professional counselor, the applicant must provide proof of completion of a supervised practicum and internship as listed in §503 (Definitions) and at least one three-credit hour course in each of the following eight content areas. In order for a course to fulfill a content area requirement, it must include in a substantial manner the area in the description for the content areas;

i. counseling/psychotherapy theories of personality—description:

(a). counseling/psychotherapy theories, including both individual and systems perspectives;

(b). research and factors considered in applications of counseling/psychotherapy theories; or

(c). theories of personality including major theories of personality;

ii. human growth and development—description:

(a). the nature and needs of individuals at developmental levels;

(b). theories of individual and family development and transitions across the life-span;



(c). theories of learning and personality development;

(d). human behavior, including an understanding of developmental crises, disability, addictive behavior, psychopathology, and environmental factors as they affect both normal and abnormal behavior;

(e). strategies for facilitating development over the lifespan;

iii. abnormal behavior—description:

(a). emotional and mental disorders experienced by persons of all ages;

(b). characteristics of disorders;

(c). common nosologies of emotional and mental disorders utilized within the U.S. health care system;

(d). the most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders*, as published by the American Psychiatric Association;

(e). preferred treatment approaches for disorders based on research;

(f). common medications used by psychiatrists to treat disorders;

(g). working with other health care and mental health care professionals in treating individuals with emotional and mental disorders;

iv. techniques of counseling/psychotherapy—description:

(a). basic interviewing, assessment, and counseling/psychotherapeutic skills;

(b). counselor characteristics and behaviors that influence helping processes, including:

(i). age;

(ii). gender and ethnic differences;

(iii). verbal and nonverbal behaviors and personal characteristics;

(iv). orientations; and

(v). skills;

(c). client characteristics and behaviors that influence helping processes, including:

(i). age;

(ii). gender and ethnic differences;

(iii). verbal and nonverbal behaviors and personal characteristics;

(iv). traits;

(v). capabilities; and

(vi). life circumstances;

v. group dynamics, processes, and counseling/psychotherapy—description:

(a). principles of group dynamics, including:

(i). group process components;

(ii). developmental stage theories; and

(iii). group members' roles and behaviors;

(b). group leadership styles and approaches, including characteristics of various types of group leaders and leadership styles;

(c). theories of group counseling/psychotherapy, including:

(i). commonalities;

(ii). distinguishing characteristics; and

(iii). pertinent research and literature;

(d). group counseling/psychotherapeutic methods, including:

(i). group counselor orientations and behaviors;

(ii). ethical standards;

(iii). appropriate selection criteria and methods; and

(iv). methods of evaluation of effectiveness;

(e). approaches used for other types of group work, including:

(i). task groups;

(ii). prevention groups;

(iii). support group; and

(iv). therapy groups;

vi. lifestyle and career development—description:

(a). career development theories and decision-making models;

(b). career, a vocational, educational, and labor market information resources, visual and print media, and computer-based career information systems;

(c). career development program planning, organization, implementation, administration, and evaluation;

(d). interrelationships among work, family, and other life roles and factors including multicultural and gender issues as related to career development;

(e). career and educational placement, follow-up and evaluation;

(f). assessment instruments and techniques relevant to career planning and decision-making;

(g). computer-based career development applications and strategies, including computer-assisted guidance systems;

(h). career counseling processes, techniques, and resources, including those applicable to specific populations;

vii. appraisal of individuals—description:

(a). theoretical and historical bases for assessment techniques;

(b). validity, including evidence for establishing:

(i). content;

(ii). construct; and

(iii). empirical validity;

(c). reliability, including methods of establishing:

(i). stability;

(ii). internal and equivalence reliability;

(d). appraisal methods, including:

(i). environmental assessment;

(ii). performance assessment;

(iii).[a]. individual and group test and inventory methods;

[b]. behavioral observations; and

[c]. computer-managed and computer-assisted methods;

(e). psychometric statistics, including:

(i). types of assessment scores;

(ii). measures of central tendency;

(iii). indices of variability;

(iv). standard errors; and

(v). correlations;

(f). age, gender, ethnicity, language, disability, and culture factors related to the assessment and evaluation of individuals and groups;

(g). strategies for selecting, administering, interpreting, and using assessment and evaluation instruments and techniques in counseling;

viii. ethics and professional orientation—description:

(a). ethical standards of the American Counseling Association, state counselor licensure boards, and national counselor certifying agencies;

(b). ethical and legal issues and their applications to various professional activities;

(c). history of the helping professions, including significant factors and events;

(d). professional roles and functions of counselors, including similarities and differences with other mental health professionals;

(e). professional organizations, primarily the American Counseling Association, its divisions, branches, and affiliates, including membership benefits, activities, services to members, and current emphases, professional preparation standards, their evolution, and current applications;

(f). professional credentialing, including certification, licensure, and accreditation practices and standards, and the effects of public policy on these issues;

(g). public policy processes, including the role of the professional counselor in advocating on behalf of the profession and its clientele;

5. has obtained a board-approved supervisor;

a. the provisional licensed professional counselor will identify an individual who agrees to serve as his/her board-approved supervisor. This individual must hold the licensed professional counselor-supervisor designation as issued by the Louisiana LPC Board of Examiners;

b. the provisional licensed professional counselor, along with his/her desired board-approved supervisor, will:

i. provide the board with a written proposal outlining with as much specificity as possible the nature of the counseling duties to be performed by the provisional licensed professional counselor and the nature of the board-approved supervision;

ii. submit this written proposal on forms provided by the board prior to the proposed starting date of the board-approved supervision;

iii. submit, along with the written proposal, the appropriate fee determined by the board;

c. following the board's review, the provisional licensed professional counselor will be informed by letter either that the proposed supervision arrangement has been approved or that it has been rejected. Any rejection letter will outline, with as much specificity as practical, the reasons for rejection;

d. all proposed supervision arrangements must be approved by the board prior to the starting date of the supervised experience. An applicant may not accrue any supervised experience hours, including face-to-face supervision hours, until the applicant is approved as a provisional licensed professional counselor.

i. should the provisional licensed professional counselor add a board-approved supervisor, face-to-face supervision hours may not be accrued with the added supervisor until the application for supervision has been filed and approved by the LPC Board.

ii. should the provisional licensed professional counselor change board-approved supervisors, supervised experience hours, including face-to-face supervision hours, may not be accrued with the new supervisor until the application for supervision has been filed and approved by the LPC Board. If the provisional licensed professional counselor remains under active supervision with his/her current board-approved supervisor, he/she may continue to practice mental health counseling and accrue supervised experience hours until the change is approved by the LPC Board;

iii. a provisional licensed professional counselor may not be directly or indirectly employed or supervised (administrative supervision or board-approved supervision) by a relative of the provisional licensed professional counselor. For example, the licensee's board-approved supervisor cannot be supervised or employed by a relative of the licensee. Relative of the provisional licensed professional counselor is defined as spouse, parent, child, sibling of the whole- or half-blood, grandparent, grandchild, aunt, uncle, one who is or has been related by marriage or has any other dual relationship. Any exception must be approved by the board;

6. has obtained a board-approved practice setting;

a. The provisional licensed professional counselor will identify a practice setting wherein he/she may accrue direct and/or indirect supervised experience hours. To obtain approval of a practice setting for accrual of direct client contact hours, the supervisee must engage in the practice of mental health counseling as defined in Chapter 5;

b. the practice setting must be approved by the supervisee's desired and/or designated board-approved supervisor prior to submission of the practice setting on forms provided by the board;

c. board-approval of the supervisee's practice setting is required in order to begin accruing supervised experience hours at such practice setting;

d. no supervised experience hours (direct, indirect, or face to face supervision) may be accrued at a practice setting that is not approved by the board. Furthermore, should a provisional licensed professional counselor fail to inform the board of a practice setting by submitting appropriate documentation within 30 days of the date of hire at such setting, the provisional licensed professional counselor will forfeit all supervised experience hours accrued and be subject to a fine as defined in Chapter 9 whether or not the setting is approved by the board;

e. the professional practice setting cannot include any practice setting in which the provisional licensed professional counselor operates, manages, or has an ownership interest (e.g., private practice, for-profit, non-profit, etc.);

f. the licensee must be supervised by an administrative supervisor (in addition to receiving active, board-approved supervision) in order to volunteer counseling services or receive a wage for services rendered as an employee or private contractor. The control, oversight, and professional responsibility for provisional licensed professional counselors rests with the licensee's administrative supervisor in the setting in which they are employed, contracted or volunteering;

g. provisional licensed professional counselors must notify their administrative supervisor of the identity of their board-approved supervisor and the nature of the supervisory activities, including any observations or taping that occurs with clients, after obtaining the client's permission, in the setting;

h. a licensed mental health professional (e.g. LPC, LMFT, LCSW) must be employed in the professional setting in which the provisional licensed professional counselor is rendering counseling services and be available for case consultation and processing. The provisional licensed professional counselor must have obtained the administrative supervisor's approval of the licensed mental health professional prior to submitting the practice setting for board review. The licensed mental health professional may be the board-approved supervisor or the administrative supervisor if he/she meets each of the aforementioned requirements;

i. supervised experience accrued by the provisional licensed professional counselor in an exempt setting needs to meet the requirements in this rule if that supervised experience is to meet the requirements for licensure as set forth by R.S. 37:1107(A);

7. has provided to the board a declaration of practices and procedures, with the content being subject to board review and approval;

8. has received a letter from the board certifying that all the requirements for *provisional licensed professional counselor*, as defined in this Chapter, were met before accruing supervised experience hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:712 (April 2015).

#### **§605. Board-Approved Supervised Practice Requirements for Provisional Licensed Professional Counselors**

##### **A. Board-Approved Supervision Requirements**

1. *Supervision* is defined as assisting the provisional licensed professional counselor (supervisee) in developing expertise in methods of the professional mental health counseling practice and in developing self-appraisal and professional development strategies. *Supervision* must comply with standards as set by the board.

2. Pursuant to R.S. 37:1107(A), a supervisee must document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than six years from the original date such supervision was approved. A supervisee must remain under supervision of a board-approved supervisor until receiving written notification of approval for licensure.

a.i. Based on the above, the required 3,000 hours of counseling/psychotherapeutic experience shall be accrued in the following manner:

(a). a minimum of 1,900 hours (up to 2,900) in direct counseling/psychotherapeutic services involving individuals, couples, families, or groups;

(i). an applicant may utilize supervised direct hours earned in post-master's degree practicum and

internship courses in counseling (from a regionally accredited university) toward the required 1900 hours of direct counseling/psychotherapeutic services. In order to be counted, the direct hours earned in practicum and internship courses must have occurred after the applicant has been approved for provisional licensure and is under the supervision of the applicant's board approved supervisor. An applicant may not count hours spent supervising others (i.e., supervision courses, doctoral students supervising master's level students) as direct hours;

(b). a maximum of 1,000 hours in additional client contact, counseling related activities (i.e., case notes, staffing, case consultation, or testing/assessment of clients) or education at the graduate level in the field of mental health as defined above;

(i). Five hundred indirect hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board. Practicum and internship courses may not be included in the 30 graduate semester hours that are used to substitute for 500 hours of supervised experience if they are used to count toward an applicant's direct hours;

(c). a minimum of 100 hours of face-to-face supervision by a board-approved supervisor. Up to 25 of the 100 face-to-face hours may be conducted by synchronous videoconferencing;

(i). The board recommends one hour of supervision for every 20 hours of direct client contact as outlined in Subclause A.2.a.i.(a). Supervision may not take place via mail, email, or telephone. Telephone, mail, or email contacts with supervisor may be counted under Subclause A.2.a.i.(b) (i.e., consultation), however, it cannot be counted as face to face supervision as defined in Subclause A.2.a.i.(c).

ii. Acceptable modes for supervision of direct clinical contact are the following.

(a). Individual Supervision. The supervisory session is conducted by the board-approved supervisor(s) with one provisional licensed professional counselor present.

(b). Group Supervision. The supervisory session is conducted by the board-approved supervisor(s) with no more than 10 provisional licensed professional counselors present.

iii. At least 100 hours of the provisional licensed professional counselor's direct clinical contact with clients must be supervised by the board-approved supervisor(s), as defined below.

(a). At least 50 of these 100 hours must be individual supervision as defined above.

(b). The remaining 50 hours of these 100 hours may be either individual supervision or group supervision as defined above.

##### **B. Responsibility of Supervisee under Board-Approved Supervision**

1. During the period of supervised counseling/psychotherapy experience, the only proper identification title is provisional licensed professional counselor or PLPC. Provisional licensed professional counselors shall not identify or represent themselves by any

other term or title, including “licensed”, “fully licensed”, “licensed professional counselor”, “LPC”, or “counselor”.

2. Each provisional licensed professional counselor must provide his/her clients with a disclosure statement (as outlined in the appendix of the code of conduct) that includes:

- a. his/her training status; and
- b. the name of his/her supervisor for licensure purposes.

3. Provisional licensed professional counselors must comply with all laws and regulations relating to the practice of mental health counseling (R.S. 37:1101-1123).

4. The provisional licensed professional counselor must maintain contact with his/her board-approved supervisor to ensure that active supervision requirements (as defined in Chapter 5) are met.

5. Provide updates to the board and board-approved supervisor regarding changes in status on forms provided by the board within 30 days of said change. Failure to comply may result in a fine, loss of supervised experience hours, and/or disciplinary action. Changes in status include changes in:

- a. relevant personal information, including contact information, physical address, name;
- b. relevant practice setting information, including job title/duties, employment status;
- c. status with the justice system, including notification of arrest, charges, convictions;
- d. status with another licensure/credentialing body, including notification of suspension, revocation, or other disciplinary proceedings/actions;
- e. the use of any narcotics, controlled substances, or any alcoholic beverages in a manner that is dangerous to the public or in a manner that impairs the supervisee’s ability to provide mental health services to the public;
- f. any medical condition which may in any way impair or limit the supervisee’s ability to provide mental health services to the public with reasonable skill or safety.

6. The supervisee must maintain documentation of all supervised experience hours by employment location and type of hour (indirect, direct, and face to face supervision). It is recommended that a supervisee obtain the signature of the board-approved supervisor indicating review and approval of documentation at regular intervals.

7. The supervisee must renew his/her provisional license in accordance with Chapter 6, Section 611 and maintain a valid provisional license in order to practice mental health counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:715 (April 2015).

#### **§607. Out-of-State Applicants for Provisional Licensed Professional Counselor**

A. The decision to approve transfer of any supervised experience hours and board-equivalent supervisors from out-of-state shall be made at the discretion of the board. An out-of-state applicant may transfer up to 2500 supervised experience hours if such hours meet the requirements as stated in Section 605. Out of state supervised experience hours may be endorsed according to the following limits:

1. a maximum of 1600 direct client contact hours;

2. a maximum of 815 indirect hours;

3. a maximum of 85 hours of face-to-face supervision.

a. All face to face supervision hours must have been accrued under the clinical supervision of an approved supervisor within their state who meets the qualifications of a supervisor of provisional licensed professional counselors set forth by the Licensed Professional Counselor Board of Examiners.

B. An applicant must also be in good standing in all jurisdictions in which they are licensed or credentialed and must not have been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license or credential to practice mental health counseling in the state of Louisiana at the time the act was committed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:716 (April 2015).

#### **§609. Renewal Requirements for Provisional Licensed Professional Counselors**

A. A provisional licensed professional counselor shall renew his/her provisional license every two years in the month of October by meeting the following requirements each renewal period:

1. 20 clock hours of continuing education in accordance with Section 611;
2. submit a renewal fee as prescribed in Chapter 9;
3. submit supervised experience hours accrued (direct, indirect, face to face supervision) since approval/renewal as a provisional licensed professional counselor;
4. take National Counselors Examination (NCE) or National Clinical Mental Health Counselors Examination (NCMHCE) and request the National Board of Certified Counselors (NBCC) submission of score report to the board until a passing score is achieved. If a passing score is not achieved, the NCE or NCMHCE must be taken at least once per renewal period. At the discretion of the board, an oral examination may be required as well;
5. submit an updated declaration statement if there has been a change in the area of focus or area of expertise, with the content being subject to board review and approval. The board, at its discretion, may require the licensee to present satisfactory evidence supporting any changes in area of focus or expertise noted in the declaration statement. All other changes as defined in Chapter 6, Section 605.B.5 should be submitted to the board within 30 days of said change.

5. submit an updated declaration statement if there has been a change in the area of focus or area of expertise, with the content being subject to board review and approval. The board, at its discretion, may require the licensee to present satisfactory evidence supporting any changes in area of focus or expertise noted in the declaration statement. All other changes as defined in Chapter 6, Section 605.B.5 should be submitted to the board within 30 days of said change.

B. The chair shall issue a document renewing the provisional license for a term of two years. The provisional license of any licensee who fails to have his/her provisional license renewed every two years during the month of October shall lapse. An individual with a lapsed license may not practice mental health counseling, identify his/herself as a provisional licensed professional counselor or accrue any supervised experience hours. A lapsed provisional license may be renewed within a period of 90 days or postmarked by January 31 upon payment of all fees and arrears and presentation of all required documentation. After ninety days, the licensee will forfeit all supervised experience hours accrued during that renewal period and must reapply for provisional licensure under current requirements and submit

recent continuing education hours (CEHs) as part of reapplication.

C. The provisional licensee must apply and be approved for licensure within six years from date of approval as a provisional licensed professional counselor. After six years, the licensee will forfeit all supervised experience hours accrued and must reapply for provisional licensure under current requirements and submit recent continuing education hours (CEHs) as part of reapplication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:716 (April 2015).

#### **§611. Continuing Education Requirements for Provisional Licensed Professional Counselors**

A. A provisional licensee must accrue 20 clock hours of continuing education by every renewal period every two years. Of the 20 clock hours of continuing education, one and a half clock hours must be accrued in ethics and one and a half clock hours must be accrued in diagnosis (assessment, diagnosis, and treatment under the *Diagnostic and Statistical Manual of Mental Disorders 5*, as published by the American Psychiatric Association).

1. One continuing education hour (CEH) is equivalent to one clock hour.

2. Accrual of continuing education begins only after the date the license was issued.

3. CEHs accrued beyond the required 20 hours may not be applied toward the next renewal period. A provisional licensee renewal period runs November 1 to October 31, every two years.

4. The licensee is responsible for keeping a personal record of his/her CEHs until official notification of renewal is received. Licensees should not forward documentation of CEHs to the board office as they are accrued.

5. At the time of renewal, 10 percent of the licensees will be audited to ensure that the continuing education requirement is being met. Audited licensees will be notified to submit documentation of accrued CEHs.

B. Approved Continuing Education for Provisional Licensed Professional Counselors

1. Continuing education requirements are meant to encourage personal and professional development throughout the licensee's career. For this reason, a wide range of options are offered to accommodate the diversity of licensees' training, experience, and geographic locations.

2. A licensee may obtain the 20 CEHs through one or more of the options listed below. A maximum of 10 CEHs may be obtained through an online format, with the exception of coursework obtained through a regionally accredited institution of higher education.

a. Continuing Education Approved by Other Organizations. Continuing education that is approved by either the American Counseling Association (ACA), its divisions, regions and state branches, Louisiana Counseling Association (LCA), or the National Board of Certified Counselors (NBCC) will be accepted by the board of examiners. One may contact these associations to find out which organizations, groups or individuals are approved providers. One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be granted for:

business/governance meetings; breaks; social activities including meal functions, except for actual time of a content speaker. Credit cannot be given for an approved session to persons who leave early from that session. Verification can consist of copies of certificates of attendance.

b. Continuing Education Not Preapproved. For those organizations, groups or individuals that do not carry provider status by one of the associations listed in Subparagraph a of this Paragraph, the continuing education hours will be subject to approval by the Licensed Professional Counselors Board of Examiners at the time of renewal. The board will not pre-approve any type of continuing education. The continuing education must be in one of the 14 approved content areas listed in Section 611.C, and be given by a qualified presenter. A qualified presenter is considered to be someone at the master's level or above and trained in the mental health field or related services. One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be granted for business/governance meetings, breaks, social activities, including meal functions, except for actual time of a content speaker. Credit cannot be given for an approved session to persons who leave early from that session. Verification for workshops, seminars, or conventions can consist of copies of certificates of attendance. Typically one continuing education unit (CEU) is equivalent to 10 clock hours (CEH).

c. Coursework. CEHs may also be gained by taking coursework (undergraduate or graduate) from a regionally accredited institution in one of the 12 approved content areas for continuing education listed in §611.C. One may take a course for credit or audit a course. In a college or university program, one semester hour is equivalent to 15 clock hours and one quarter hour is equivalent to 10 clock hours. Therefore, 45 CEHs will be given for a three hour university course completed at a regionally accredited university. Verification for coursework can consist of either copies of transcripts for coursework taken for credit or letter of attendance from instructor for courses audited.

d. Home Study (five hours maximum per renewal period). Journals published by ACA, LCA, professional refereed journals, video presentations, and webinars are all approved home study options. Each option must carry a provider number from either NBCC, ACA, LCA, or other board-approved mental health organizations. Each activity will specify the number of CEHs that will be granted upon completion. Verification consists of a certificate issued by NBCC, ACA, LCA, or certificates from other professional mental health organizations that will be reviewed by the board.

e. Presentations (five hours maximum per renewal period). Presenters may get credit for original presentations at a rate of five clock hours per one hour presentation. Presenters must meet the qualifications stated in Subparagraph B.2.b above. The presentation must be to the professional community, not to the lay public or a classroom presentation. The presentation must also be in one of the 14 approved content areas listed in §611.C. Verification of the presentation consists of obtaining a letter from the workshop/convention coordinator stating the topic, date, and number of hours of presentation.

f. Publishing (five hours maximum per renewal period). Authors may receive five clock hours per article or chapter in a book. The article must be published in a professional refereed journal. Both articles and chapters must be in one of the 14 approved content areas listed in §611.C. Verification will consist of either a reprint of the article/chapter, or a copy of the article/chapter, cover of the book/journal and page listing the editor or publisher.

g. Counseling (five hours maximum per renewal period). One may receive one clock hour of continuing education per counseling hour as a client. To qualify, one must be a client receiving services from a licensed mental health professional having qualifications equal to, or exceeding, those currently required of counselors. Consultation and supervision hours do not qualify. Verification will consist of a letter from the counseling mental health professional verifying client therapy hours.

h. Research (five hours maximum per renewal period). One may receive one clock hour of continuing education per hour of planning or conduct of, or participation in, counseling or counseling-related research. To qualify, this activity must constitute an original and substantive educational experience for the learner. Verification will consist of a letter from the faculty member or researcher.

C. Approved Content Areas. Continuing education hours must be in one of the following 14 content areas:

1. counseling theory—includes a study of basic theories, principles and techniques of counseling and their application in professional settings;

2. human growth and development—includes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels, normal and abnormal human behavior, personality theory and learning theory within appropriate cultural contexts;

3. social and cultural foundations—includes studies that provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, and differing lifestyles;

4. the helping relationship—includes studies that provide a broad understanding of philosophic bases of helping processes, counseling theories and their applications, basic and advanced helping skills, consultation theories and their applications, client and helper self-understanding and self-development, and facilitation of client or consultee change;

5. group dynamics, processing and counseling—includes studies that provide a broad understanding of group development, dynamics, and counseling theories, group leadership styles, basic and advanced group counseling methods and skills, and other group approaches;

6. lifestyle and career development includes:

a. studies that provide a broad understanding of career development theories, occupational and educational information sources and systems, career and leisure counseling, guidance, and education;

b. lifestyle and career decision-making, career development program planning and resources, and effectiveness evaluation;

7. appraisal of individuals—includes studies that provide a broad understanding of group and individual

educational and psychometric theories and approaches to appraisal, data and information gathering methods, validity and reliability, psychometric statistics, factors influencing appraisals, and use of appraisal results in helping processes;

8. research and evaluation—includes studies that provide a broad understanding of types of research, basic statistics, research report development, research implementation, program evaluation, needs assessment, publication of research information, and ethical and legal considerations associated with the conduct of research;

9. professional orientation—includes studies that provide a broad understanding of professional roles and functions, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards, professional credentialing and management of private practice and agency settings;

10. marriage and family—includes studies that provide a broad understanding of marriage and family theories and approaches to counseling with families and couples. This includes appraisal of family and couples systems and the application of these to counseling families and/or couples;

11. chemical dependency—includes studies that provide a broad understanding of chemical dependency issues, theories, and strategies to be applied in the helping relationship for chemical dependency counseling;

12. supervision—includes studies in theory and techniques of supervision as well as ethical and legal issues, case management, and topics relative to the specific supervised setting;

13. abnormal includes studies of emotional and mental disorders experienced by persons of all ages, characteristics of disorders, common nosologies of emotional and mental disorders utilized within the U.S. health care system, and the *Diagnostic and Statistical Manual of Mental Disorders 5*, as published by the American Psychiatric Association. This includes:

a. studies of preferred treatment approaches for disorders based on research;

b. common medications used by psychiatrists to treat disorders, and

c. working with other health care and mental health care professionals in treating individuals with emotional and mental disorders;

14. psychopharmacology includes the scientific study of the effects of drugs on mood, sensation, thinking, and behavior. This also includes a range of substances with various types of psychoactive properties, which involves drugs used in the treatment of psychopathological disorders and drugs of abuse, and focuses on the chemical interactions with the brain.

D. Types of documentation needed for verification:

1. copy of certificate of attendance for workshops, seminars, or conventions;

2. copy of transcript for coursework taken for credit/letter of attendance from instructor for courses audited;

3. home study verification form or certificate issued by NBCC/ACA/LCA;

4. letter from workshop/convention coordinator verifying presentations;

5. copy of article, cover and editorial board page for publications;

6. letter from counseling mental health professional verifying number of hours in counseling as a client;

7. letter from the faculty member or researcher verifying number of hours in research;

8. letter or certificate from the LPC Board of Examiners, or from the board-approved counseling service organization, verifying number of hours of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 41:717 (April 2015).

## **Chapter 7. Application and Renewal Requirements for Licensed Professional Counselors**

### **§703. Licensed Professional Counselors Licensing Requirements**

A. - A.3. ...

4. can document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than six years from the original date such supervision was approved. Five hundred indirect hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree, provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board provided that in no case the applicant has less than 2,000 hours of board-approved supervised experience within the aforementioned time limits.

5. has declared special competencies and demonstrated professional competence therein by passing a written exam (NCE or NCMHCE) and, at the discretion of the board, an oral examination as shall be prescribed by the board.

6. has received a graduate degree, as defined in Chapter 5, the substance of which is professional mental health counseling in content from a regionally-accredited institution of higher education offering a master's and/or doctoral program in counseling that is approved by the board in accordance with the requirements listed in Chapter 6, Section 603.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 18:269 (March 1992), LR 22:102 (February 1996), LR 24:1294 (July 1998), LR 24:2124 (November 1998), LR 29:131 (February 2003), LR 39:1785 (July 2013), LR 41:719 (April 2015).

### **§705. Renewal**

A. A licensed professional counselor shall renew his/her license and privileging designation(s) every two years in the month of June by meeting the requirement that 40 clock hours of continuing education be obtained prior to each renewal date every two years in an area of professional mental health counseling as approved by the board and by paying a renewal fee.

B. The licensee should submit a declaration statement with any changes not reviewed and approved by the board, including a change in area of expertise or area of focus, with the content being subject to board review and approval. The board, at its discretion, may require the licensee to present satisfactory evidence supporting any changes in areas of expertise or focus noted in the declaration statement.

C. The chair shall issue a document renewing the license for a term of two years.

D. The license or privileging designation of any mental health counselor who fails to have this license or privileging designation renewed every two years during the month of June shall lapse; however, the failure to renew said license or privileging designation shall not deprive said counselor the right of renewal thereafter.

1. A lapsed license or privileging designation may be renewed within a period of two years after the date of licensure lapse upon payment of all fees in arrears and presentation of evidence of completion of the continuing education requirement.

2. Application for renewal after two years from the date of licensure lapse will not be considered for renewal; the individual must apply under the current licensure and/or privileging guidelines and submit recent continuing education hours (CEHs) as part of application for licensure or privileging designation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:719 (April 2015).

### **§707. Renewal Requirements for Licensed Professional Counselors and Board Approved Supervisors**

A. General Guidelines

1. A licensee must accrue 40 clock hours of continuing education by every renewal period every two years. Of the 40 clock hours of continuing education, 3 clock hours must be accrued in ethics and 6 clock hours must be accrued in diagnosis (assessment, diagnosis, and treatment under the *Diagnostic and Statistical Manual of Mental Disorders 5*, as published by the American Psychiatric Association). A board-approved supervisor must accrue 3 clock hours (of the required 40 clock hours of continuing education) in supervision.

2. One continuing education hour (CEH) is equivalent to one clock hour.

3. Accrual of continuing education begins only after the date the license was issued.

4. CEHs accrued beyond the required 40 hours may not be applied toward the next renewal period. Renewal periods run from July 1 to June 30, every two years.

5. The licensee is responsible for keeping a personal record of his/her CEHs until official notification of renewal is received. Licensees should not forward documentation of CEHs to the board office as they are accrued.

6. At the time of renewal, 10 percent of the licensees will be audited to ensure that the continuing education requirement is being met. Audited licensees will be notified to submit documentation of accrued CEHs.

**B. Approved Continuing Education for Licensed Professional Counselors and Board Approved Supervisors**

1. Continuing education requirements are meant to encourage personal and professional development throughout the counselor's career. For this reason, a wide range of options are offered to accommodate the diversity of counselors' training, experience, and geographic locations.

2. A licensee may obtain the 40 CEHs through one or more of the options listed below. Effective July 1, 2014 a maximum of 20 CEHs may be obtained through an online format, with the exception of coursework obtained through a regionally accredited institution of higher education.

a. **Continuing Education Approved by Other Organizations.** Continuing education that is approved by either the American Counseling Association (ACA), its divisions, regions and state branches, Louisiana Counseling Association (LCA), or the National Board of Certified Counselors (NBCC) will be accepted by the Board of Examiners. One may contact these associations to find out which organizations, groups or individuals are approved providers. One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be granted for: business/governance meetings; breaks; social activities including meal functions, except for actual time of a content speaker. Credit cannot be given for an approved session to persons who leave early from that session. Verification can consist of copies of certificates of attendance.

b. **Continuing Education Not Preapproved.** For those organizations, groups or individuals that do not carry provider status by one of the associations listed in Subparagraph a of this Paragraph, the continuing education hours will be subject to approval by the Licensed Professional Counselors Board of Examiners at the time of renewal. The board will not pre-approve any type of continuing education. The continuing education must be in one of the 14 approved content areas listed in §707.C, and be given by a qualified presenter. A qualified presenter is considered to be someone at the master's level or above and trained in the mental health field or related services. One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be granted for business/governance meetings, breaks, social activities, including meal functions, except for actual time of a content speaker. Credit cannot be given for an approved session to persons who leave early from that session. Verification for workshops, seminars, or conventions can consist of copies of certificates of attendance. Typically one continuing education unit (CEU) is equivalent to 10 clock hours (CEH).

c. **Coursework.** CEHs may also be gained by taking coursework (undergraduate or graduate) from a regionally accredited institution in one of the 14 approved content areas for continuing education listed in §707.C. One may take a course for credit or audit a course. In a college or university program, one semester hour is equivalent to 15 clock hours and one quarter hour is equivalent to 10 clock hours. Therefore, 45 CEHs will be given for a three hour university course completed at a regionally accredited university. Verification for coursework can consist of either copies of transcripts for coursework taken for credit or letter of attendance from instructor for courses audited.

d. **Home Study** (10 hours maximum per renewal period, effective July 1, 2014). Journals published by ACA, LCA, professional refereed journals, video presentations, and webinars are all approved home study options. Each option must carry a provider number from either NBCC, ACA, LCA, or other board-approved mental health organizations. Each activity will specify the number of CEHs that will be granted upon completion. Verification consists of a certificate issued by NBCC, ACA, LCA, or certificates from other professional mental health organizations that will be reviewed by the board.

e. **Presentations** (10 hours maximum per renewal period, effective July 1, 2014). Presenters may get credit for original presentations at a rate of five clock hours per one hour presentation. Presenters must meet the qualifications stated in Subparagraph B.2.b above. The presentation must be to the professional community, not to the lay public or a classroom presentation. The presentation must also be in one of the 14 approved content areas listed in §707.C. Verification of the presentation consists of obtaining a letter from the workshop/convention coordinator stating the topic, date, and number of hours of presentation.

f. **Publishing** (10 hours maximum per renewal period, effective July 1, 2014). Authors may receive five clock hours per article or chapter in a book. The article must be published in a professional refereed journal. Both articles and chapters must be in one of the 14 approved content areas listed in §707.C. Verification will consist of either a reprint of the article/chapter, or a copy of the article/chapter, cover of the book/journal and page listing the editor or publisher.

g. **Counseling** (10 hours maximum per renewal period). One may receive one clock hour of continuing education per counseling hour as a client. To qualify, one must be a client receiving services from a licensed mental health professional having qualifications equal to, or exceeding, those currently required of counselors. Consultation and supervision hours do not qualify. Verification will consist of a letter from the counseling mental health professional verifying client therapy hours.

h. **Research** (10 hours maximum per renewal period, effective July 1, 2014). One may receive one clock hour of continuing education per hour of planning or conduct of, or participation in, counseling or counseling-related research. To qualify, this activity must constitute an original and substantive educational experience for the learner. Verification will consist of a letter from the faculty member or researcher.

i. **Peer Supervision** (10 hour maximum per renewal period). One may receive one clock hour of continuing education per hours of performing peer supervision activities. For example, case work consultation.

**C. Approved Content Areas.** Continuing education hours must be in one of the following 14 content areas:

1. **counseling theory**—includes a study of basic theories, principles and techniques of counseling and their application in professional settings;

2. **human growth and development**—includes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels, normal and abnormal human behavior, personality theory and learning theory within appropriate cultural contexts;



3. social and cultural foundations—includes studies that provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, and differing lifestyles;

4. the helping relationship—includes studies that provide a broad understanding of philosophic bases of helping processes, counseling theories and their applications, basic and advanced helping skills, consultation theories and their applications, client and helper self-understanding and self-development, and facilitation of client or consultee change;

5. group dynamics, processing and counseling—includes studies that provide a broad understanding of group development, dynamics, and counseling theories, group leadership styles, basic and advanced group counseling methods and skills, and other group approaches;

6. lifestyle and career development includes:

a. studies that provide a broad understanding of career development theories, occupational and educational information sources and systems, career and leisure counseling, guidance, and education;

b. lifestyle and career decision-making, career development program planning and resources, and effectiveness evaluation;

7. appraisal of individuals—includes studies that provide a broad understanding of group and individual educational and psychometric theories and approaches to appraisal, data and information gathering methods, validity and reliability, psychometric statistics, factors influencing appraisals, and use of appraisal results in helping processes;

8. research and evaluation—includes studies that provide a broad understanding of types of research, basic statistics, research report development, research implementation, program evaluation, needs assessment, publication of research information, and ethical and legal considerations associated with the conduct of research;

9. professional orientation—includes studies that provide a broad understanding of professional roles and functions, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards, professional credentialing and management of private practice and agency settings;

10. marriage and family—includes studies that provide a broad understanding of marriage and family theories and approaches to counseling with families and couples. This includes appraisal of family and couples systems and the application of these to counseling families and/or couples;

11. chemical dependency—includes studies that provide a broad understanding of chemical dependency issues, theories, and strategies to be applied in the helping relationship for chemical dependency counseling;

12. supervision—includes studies in theory and techniques of supervision as well as ethical and legal issues, case management, and topics relative to the specific supervised setting;

13. abnormal includes studies of emotional and mental disorders experienced by persons of all ages, characteristics of disorders, common nosologies of emotional and mental disorders utilized within the U.S. health care system, and the most recent edition of the *Diagnostic and Statistical Manual*

*of Mental Disorders*, as published by the American Psychiatric Association. This includes:

a. studies of preferred treatment approaches for disorders based on research;

b. common medications used by psychiatrists to treat disorders, and

c. working with other health care and mental health care professionals in treating individuals with emotional and mental disorders;

14. psychopharmacology includes the scientific study of the effects of drugs on mood, sensation, thinking, and behavior. This also includes a range of substances with various types of psychoactive properties, which involves drugs used in the treatment of psychopathological disorders and drugs of abuse, and focuses on the chemical interactions with the brain.

D. Types of documentation needed for verification:

1. copy of certificate of attendance for workshops, seminars, or conventions;

2. copy of transcript for coursework taken for credit/letter of attendance from instructor for courses audited;

3. home study verification form or certificate issued by NBCC/ACA/LCA;

4. letter from workshop/convention coordinator verifying presentations;

5. copy of article, cover and editorial board page for publications;

6. letter from counseling mental health professional verifying number of hours in counseling as a client;

7. letter from the faculty member or researcher verifying number of hours in research;

8. letter or certificate from the LPC Board of Examiners, or from the board-approved counseling service organization, verifying number of hours of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:719 (April 2015).

## **Chapter 8. Licensed Professional Counselor Supervisors**

### **§801. Licensed Professional Counselor Supervisor Requirements**

A. Qualifications of a Supervisor of Provisional Licensed Professional Counselors

1. Supervision of provisional licensed professional counselors is a specialty area and requires privileging review. Those individuals who may provide supervision to provisional licensed professional counselors must meet the following requirements.

a. Licensure Requirements. The supervisor must hold a Louisiana license as a licensed professional counselor.

b. Counseling Practice. The supervisor must have been practicing mental health counseling in their setting (i.e., school, agency, private practice) for at least five years. Two of the five years experience must be post licensing experience.

c. Training in Supervision. Supervisors must have successfully completed either Clauses i or ii below.

i. Graduate-Level Academic Training. At least one graduate-level academic course in counseling supervision. The course must have included at least 45 clock

hours (equivalent to a three credit hour semester course) of supervision training.

ii. Professional Training. A board-approved professional training program in supervision. The training program must be a minimum of 25 direct clock hours with the trainers and meet presentation standards established by the board.

2. A supervisor may not be a relative of nor be employed by a relative of the provisional licensed professional counselor. Relative of the provisional licensed professional counselor is defined as spouse, parent, child, sibling of the whole- or half-blood, grandparent, grandchild, aunt, uncle, one who is or has been related by marriage or has any other dual relationship.

3. No person shall serve as a supervisor if his/her license is lapsed, expired, or subject to terms of probation, suspension, or revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:721 (April 2015).

### **§803. Supervised Experience of Provisional Licensed Professional Counselors**

#### **A. Supervision Requirements**

1. *Supervision* is defined as assisting the provisional licensed professional counselor in developing expertise in methods of the professional mental health counseling practice and in developing self-appraisal and professional development strategies. *Supervision* must comply with standards as set by the board.

2. A supervisor may not supervise more than 10 provisional licensed professional counselors at any given time.

3. Supervisors of provisional licensed professional counselors, as defined in these rules, have the responsibility of assisting provisional licensed professional counselors in increasing their skills as a mental health professional. Supervisors, as defined in these rules, have no control, oversight, or professional responsibility for the services of provisional licensed professional counselors whom they are supervising, unless a supervisor also serves as the administrative supervisor of a provisional licensed professional counselors in the setting in which the provisional licensed professional counselor is employed or contracted or is rendering counseling services on a volunteer basis. The control, oversight, and professional responsibility for provisional licensed professional counselors rests with the provisional licensed professional counselor's administrative supervisor in the setting in which they are employed or contracted or are rendering counseling services on a volunteer basis. A licensed mental health professional (e.g. LPC, LMFT, LCSW), not necessarily the board-approved supervisor, must be employed in the professional setting in which the provisional licensed professional counselor is rendering counseling services and be available for case consultation and processing. In obtaining permission for outside supervision, provisional licensed professional counselors must notify their administrative supervisor of the identity of their supervisor for the purpose of gaining the supervised experience for licensure and the

nature of the supervisory activities, including any observations or taping that occurs with clients, after obtaining the client's permission, in the setting.

4. The process of supervision must encompass multiple modes of supervision, including regularly scheduled live observation of counseling sessions (where possible) and review of audiotapes and/or videotapes of counseling sessions. The process may also include discussion of the provisional licensed professional counselor's self-reports, microtraining, interpersonal process recall, modeling, role-playing, and other supervisory techniques. (Supervision as defined in these rules does not require the approved supervisor to be in the same room with the provisional licensed professional counselor during the provisional licensed professional counselor's provision of services to clients.)

5. The supervisor must provide nurturance and support to the provisional licensed professional counselor, explaining the relationship of theory to practice, suggesting specific actions, assisting the provisional licensed professional counselor in exploring various models for practice, and challenging discrepancies in the provisional licensed professional counselor's practice.

6. The supervisor must ensure the provisional licensed professional counselor's familiarity with important literature in the field of counseling, LPC Board rules, regulations, guidelines, policies, and position statements as well as state law.

7. The supervisor must provide training appropriate to the provisional licensed professional counselor's intended area of expertise and practice.

8. The supervisor must model effective professional counseling practice.

9. The supervisor must ensure that the mental health counseling and the supervision of the mental health counseling is completed in an appropriate professional setting.

10. The provisional licensed professional counselor must have received a letter from the board certifying that all the requirements for provisional licensed professional counselor, as defined in this Chapter, were met.

11. The professional setting cannot include private practice in which the provisional licensed professional counselor operates, manages, or has an ownership interest in the private practice.

12. Supervisors may employ provisional licensed professional counselors in their private practice setting. The supervisor may bill clients for services rendered by the provisional licensed professional counselor, however, under no circumstances can the provisional licensed professional counselor bill clients directly for services rendered by him/herself.

13. The supervisor must certify to the board that the provisional licensed professional counselor has successfully complied with all requirements for supervised counseling experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:722 (April 2015).

## **Chapter 9. Fees**

### **§901. General**

A. The board shall collect the following fees:

1. licensure application, license and seal—\$200;
2. out of state licensure application, license, and seal—\$300;
3. provisional licensure application and license—\$100;
4. out of state provisional licensure application and license—\$150;
5. application for appraisal, board-approved supervisor, and other specialty areas—\$100;
6. application for change/additional board-approved supervisor—\$50;
7. application for expedited review—\$55;
8. renewal of license—\$170;
9. renewal of provisional license—\$85;
10. renewal of appraisal, board-approved supervisor, and other specialty areas—\$50;
11. late fee for renewal of license—\$55;
12. late fee for renewal of provisional license—\$55;
13. late fee for renewal of appraisal, board-approved supervisor, and other specialty areas—\$25;
14. reissue of license duplicate—\$25;
15. name change on records—\$25;
16. copy of file—\$25;
17. copy of any documents—cost incurred.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:136 (February 2003), amended LR 29:2783 (December 2003), LR 39:1790 (July 2013), LR 41:723 (April 2015).

### **§903. Deposit and Use of Fees and Funds**

A. All fees collected and all gifts or grants shall be deposited and credited to the account of the board in a licensed financial institution of the board's choosing. The funds of the board may be used for printing, travel expenses of the board, and for other necessary expenses as are essential to carrying out of the provisions of R.S. 37:1101-1123. Expenses shall be paid under the written direction of the chair of the board in accordance with procedures established by the Division of Administration. Any surplus at the end of the fiscal year shall be retained by the board for future expenditures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:84 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:137 (February 2003), LR 39:1790 (July 2013), LR 41:723 (April 2015).

## **Chapter 11. Endorsement and Expedited Processing**

### **§1101. Endorsement**

A. Upon recommendation of the board, the board shall issue a license to any person who has been licensed as a licensed professional counselor and has actively practiced mental health counseling for at least five years in another jurisdiction. The applicant must submit an application on forms prescribed by the board in the prescribed manner and

pay the required licensure fee. Applicants must also provide proof of having passed the National Counselor Examination (NCE) or the National Clinical Mental Health Counseling Examination (NCMHCE) or successfully complete an oral exam administered by the board. An applicant must submit documentation of at least 40 CEHs, in accordance with the requirements listed in Chapter 7, within two years of the date of application for licensure endorsement in Louisiana. An applicant must also be in good standing in all jurisdictions in which they are licensed and must not have been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice mental health counseling in the state of Louisiana at the time the act was committed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 39:1790 (July 2013), amended LR 41:723 (April 2015).

## **Chapter 13. Disciplinary Proceedings for Licensed Professional Counselors**

### **§1301. Causes for Administrative Action**

A. The board, after due notice and hearing as set forth herein and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., may withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed professional counselor on a finding that the person has violated the Louisiana Mental Health Counselor Licensing Act, any of the rules and regulations promulgated by the board, the code of ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the licensed professional counselor, provisional licensed professional counselor, or applicant for licensure or provisional licensure. Sometimes hereinafter in this Chapter, where the context allows a licensed professional counselor, provisional licensed professional counselor, or applicant for licensure or provisional licensure may be referred to as "person."

B. The board shall also deny, revoke or suspend any license or provisional license issued or applied for, or otherwise discipline a licensed professional counselor or provisional licensed professional counselor on a finding that such person has violated any other applicable state law which themselves requires denial, revocation, or suspension of the license of such licensed professional counselor, provisional licensed professional counselor, or applicant. Such statutes include, but are not limited to R.S. 37:2951 et seq. (nonpayment of certain student loans), and R.S. 37:2952 et seq. (nonpayment of child support).

C. In addition to the Code of Conduct adopted by the LPC Board as Chapter 21, §2101-2117, the following actions or inactions by a licensed professional counselor or provisional licensed professional counselor shall also be considered ethical violations by a licensed professional counselor or provisional licensed professional counselor which may allow denial revocation, or suspension of license or provisional license.

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:84 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:837 (October 1989), LR 17:778 (August 1991), LR 18:52 (January 1992), LR 25:259 (February 1999), LR 29:137 (February 2003), LR 41:723 (April 2015).

### **§1303. Disciplinary Process and Procedures**

A. - B. ...

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he/she did, whether those acts or omissions violated the Louisiana Mental Health Counselor Licensing Act, the rules and regulations of the board, the code of ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the licensed professional counselor, provisional licensed professional counselor, or applicant for licensure or provisional licensure and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:259 (February 1999), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:137 (February 2003), LR 39:1791 (July 2013), LR 41:724 (April 2015).

### **§1305. Initiation of Complaints**

A. - B. ...

C. Pursuant to its authority to regulate this industry, the board through its Ad Hoc Committee on Disciplinary Affairs, may conduct investigations into alleged violations by a licensed professional counselor, provisional licensed professional counselor, or applicant of this Chapter or rules and regulations promulgated pursuant thereto, may issue subpoenas to secure evidence of alleged violations of the Louisiana Mental Health Counselor Licensing Act, any of the rules and regulations promulgated by the board, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the licensed professional counselor, provisional licensed professional counselor, or applicant for licensure. The confidential or privileged records of a patient or client which are subpoenaed are to be sanitized by the custodian of such records so as to maintain the anonymity of the patient or client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:260 (February 1999), amended LR 26:496 (March 2000), LR 29:138 (February 2003), LR 39:1791 (July 2013), LR 41:724 (April 2015).

### **§1309. Formal Hearing**

A. The board has the authority, granted by R.S. 37:1101 et seq., to bring administrative proceedings against persons to whom it has issued a license to practice as a licensed professional counselor, or provisional license as a provisional licensed professional counselor, or any applicant requesting a license or provisional license. The person has the right to:

A.1. - C.12.a.iii. ...

### **b. Deliberation**

i. - ii. ...

iii. after considering and voting on each charge, the board will vote on a resolution to dismiss the charges, withhold, deny, revoke or suspend any license or provisional license issued or applied for or otherwise discipline a licensed professional counselor, provisional licensed professional counselor, or applicant for licensure or provisional licensure; and

iv. the board by affirmative vote of a majority of those members voting, shall be needed to withhold, deny, revoke, or suspend any license or provisional license issued or applied for in accordance with the provisions of this Chapter or otherwise discipline a licensed professional counselor, provisional licensed professional counselor, or applicant.

c. ...

13. Every order of the board shall take effect immediately on its being rendered unless the board in such order fixes a probationary period for an applicant, or licensee, or provisional licensee. Such order shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees and provisional licensees of any action taken against a licensee or provisional licensees and may make public its orders and judgment in such manner and form as it deems proper if such orders and judgments are not consent orders or compromise judgments.

14.a. - 14.c.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:260 (February 1999), amended LR 26:496 (March 2000), LR 29:138 (February 2003), LR 39:1791 (July 2013), LR 41:724 (April 2015).

### **§1315. Refusal to Respond or Cooperate with the Board**

A. ...

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action which could eventually lead to the withholding, denial, revocation or suspension of his/her license, provisional license, or application for licensure or provisional licensure, or otherwise issue appropriate disciplinary sanction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:262 (February 1999), amended LR 29:140 (February 2003), LR 41:724 (April 2015).

### **§1317. Judicial Review of Adjudication**

A. Any person whose license, provisional license, or application for licensure or provisional licensure, has been withheld, denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the state district court for the parish of East Baton Rouge, provided that such petition for judicial review is made within 30 days after the notice of the decision of the board. If judicial review is

granted, the board's decision is enforceable in the interim unless the court orders a stay.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:263 (February 1999), amended LR 29:141 (February 2003), LR 41:724 (April 2015).

### **§1321. Reinstatement of Suspended or Revoked License or Provisional License**

A. The board is authorized to suspend the license of a licensed professional counselor and the provisional license of a provisional licensed professional counselor for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may recommend to the chair the reinstatement or revocation of the license or provisional license. A person whose license or provisional license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective. The board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:263 (February 1999), amended LR 29:141 (February 2003), LR 39:1792 (July 2013), LR 41:725 (April 2015).

### **§1327. Disciplinary Costs and Fines**

A. The board may assess and collect fines not to exceed five thousand dollars for violation of any causes for administrative action as specified in Section 1301.

B. The board may assess all costs incurred in connection with disciplinary proceedings including but limited to the costs of an investigator, stenographer, legal fees, or witness fees, and any costs and fees incurred by the board on any judicial review or appeal, for any licensee who has been found in violation of any causes for administrative action as specified in 1301.

C. After the decision of the board becomes final and delays for judicial review have expired, all costs and fees must be paid no later than ninety days or within a time period specified by board.

D. The board may withhold any issuance or reissuance of any license or certificate until all costs and fees are paid.

E. A person aggrieved by a final decision of the board who prevails upon judicial review may recover reasonable costs as defined in R.S. 37:1106(D)(2).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:725 (April 2015).

## **Chapter 15. Privileged Communication for Licensed Professional Counselors and Provisional Licensed Professional Counselors**

### **§1501. Privileged Communications with Clients**

A. The confidential relations and communications between a licensee and client are placed upon the same basis as those provided by statute between an attorney and client. Nothing in these rules shall be construed to require that any such privileged communication be disclosed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:85 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:141 (February 2003), LR 41:725 (April 2015).

## **Chapter 17. Exclusions for Licensed Professional Counselors**

### **§1703. Exemptions**

A. - C. ...

D. Any persons licensed, certified, or registered under any other provision of the state law, as long as the services rendered are consistent with their laws, professional training, and code of ethics, provided they do not represent themselves as licensed professional counselors, provisional licensed professional counselors, or mental health counselors, unless they have also been licensed under the provisions of R.S. 37:1107.

E. Any priest, rabbi, Christian Science practitioner, or minister of the gospel of any religious denomination, provided they are practicing within the employment of their church or religious affiliated institution and they do not represent themselves as licensed professional counselors, provisional licensed professional counselors, or mental health counselors unless they have also been licensed under the provisions of R.S. 37:1107.

F. Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:85 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:545 (July 1989), LR 22:103 (February 1996), LR 29:142 (February 2003), LR 39:1792 (July 2013), LR 41:725 (April 2015).

## **Chapter 21. Code of Conduct for Licensed Professional Counselors**

### **§2101. Preamble**

A. ...

B. Specification of a code of conduct enables the board to clarify to present and future licensees and to those served by licensees the responsibilities held in common by persons practicing mental health counseling.

C. ...

D. The existence of this code of conduct serves to govern the practice of mental health counseling and the professional functioning of licensed professional counselors and provisional licensed professional counselors in the state of Louisiana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:622 (August 1989), amended LR 24:438 (March 1998), LR 29:142 (February 2003), LR 39:1792 (July 2013), LR 41:725 (April 2015).

### **§2103. Counseling Relationship**

A. Licensees encourage client growth and development in ways that foster the interest and welfare of clients and promote formation of healthy relationships. Licensees actively attempt to understand the diverse cultural backgrounds of the clients they serve. Licensees also explore their own cultural identities and how these affect their values

and beliefs about the counseling process. Licensees are encouraged to contribute to society by devoting a portion of their professional activity to services for which there is little or no financial return (*pro bono publico*).

1. Welfare of Those Served by Licensees

a. Primary Responsibility. The primary responsibility of licensees is to respect the dignity and to promote the welfare of clients.

b. Records. Licensees maintain records necessary for rendering professional services to their clients and as required by laws (see Chapter 15, §1505.A), regulations, or agency or institution procedures. Licensees include sufficient and timely documentation in their client records to facilitate the delivery and continuity of needed services. Licensees take reasonable steps to ensure that documentation in records accurately reflects client progress and services provided. If errors are made in client records, licensees take steps to properly note the correction of such errors according to agency or institutional policies.

c. Counseling Plans. Licensees and their clients work jointly in devising integrated, counseling plans that offer reasonable promise of success and are consistent with abilities and circumstances of clients. Licensees and clients regularly review counseling plans to ensure their continued viability and effectiveness, respecting the freedom of choice of clients.

d. Support Network Involvement. Licensees recognize that support networks hold various meanings in the lives of clients and consider enlisting the support, understanding, and involvement of others (e.g., religious/spiritual/community leaders, family members, friends) as positive resources, when appropriate, with client consent.

e. Employment Needs. Licensees work with their clients considering employment in jobs that are consistent with the overall abilities, vocational limitations, physical restrictions, general temperament, interest and aptitude patterns, social skills, education, general qualifications, and other relevant characteristics and needs of clients. When appropriate, licensees appropriately trained in career development will assist in the placement of clients in positions that are consistent with the interest, culture, and the welfare of clients, employers, and/or the public.

2. Informed Consent in the Counseling Relationship

a. Informed Consent. Clients have the freedom to choose whether to enter into or remain in a counseling relationship and need adequate information about the counseling process, and the counselor. Licensees have an obligation to review, in writing and verbally with clients, the rights and responsibilities of both the licensee and the client. Informed consent is an ongoing part of the counseling process, and licensees appropriately document discussions of informed consent throughout the counseling relationship.

b. Types of Information Needed

i. Licensees explicitly explain to clients the nature of all services provided. They inform clients about issues such as, but not limited to, the following:

(a). the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services;

(b). the licensee's qualifications, credentials, and relevant experience;

(c). continuation of services upon the incapacitation or death of a counselor; and

(d). other pertinent information.

ii. Licensees take steps to ensure that clients understand the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements.

iii. - iii.(d). ...

c. Development and Cultural Sensitivity. Licensees communicate information in ways that are both developmentally and culturally appropriate. Licensees use clear and understandable language when discussing issues related to informed consent. When clients have difficulty understanding the language used by licensees, they provide necessary services (e.g., arranging for a qualified interpreter or translator) to ensure comprehension by clients. In collaboration with clients, licensees consider cultural implications of informed consent procedures and, where possible, licensees adjust their practices accordingly.

d. Inability to Give Consent. When counseling minors or persons unable to give voluntary consent, licensees seek the assent of clients to services, and include them in decision making as appropriate. Licensees recognize the need to balance the ethical rights of clients to make choices, their capacity to give consent or assent to receive services, and parental or familial legal rights and responsibilities to protect these clients and make decisions on their behalf.

3. Clients Served by Others. When licensees learn that their clients are in a professional relationship with another mental health professional, they request written release of information that the clients sign in order to communicate with other professionals and strive to establish positive and collaborative professional relationships.

4. Avoiding Harm and Imposing Values

a. Avoiding Harm. Licensees act to avoid harming their clients, trainees, and research participants and to minimize or to remedy unavoidable or unanticipated harm.

b. Personal Values. Licensees are aware of their own values, attitudes, beliefs, and behaviors and avoid imposing values that are inconsistent with counseling goals. Licensees respect the diversity of clients, trainers, and research participants.

5. Roles and Relationships with Clients

a. Current Clients. Sexual or romantic licensee-client interaction or relationships with current clients, their romantic partners, or their family members are prohibited.

b. Former Clients. Sexual or romantic client interactions or relationships with former clients, their romantic partners, or their family members are prohibited for a period of five years following the last professional contact. Licensees, before engaging in sexual or romantic interactions or relationships with clients their romantic partners, or client family members after five years following the last professional contact, demonstrate forethought and document (in written form) whether the interactions or relationships can be viewed as exploitive in some way and/or whether there is still potential to harm the former client; in cases of potential exploitation and/or harm, the counselor avoids entering such an interaction or relationship.

c. Nonprofessional Interactions or Relationships (other than sexual or romantic interactions or relationships).

Licensee-client nonprofessional relationships with clients, former clients, their romantic partners, or their family members should be avoided, except when the interaction is potentially beneficial to the client.

d. **Potentially Beneficial Interactions.** When a licensee-client nonprofessional interaction with a client or former client may be potentially beneficial to the client or former client, the licensee must document in case records, prior to the interaction (when feasible), the rationale for such an interaction, the potential benefit, and anticipated consequences for the client or former client and other individuals significantly involved with the client or former client. Such interactions should be initiated with appropriate client consent. Where unintentional harm occurs to the client or former client, or to an individual significantly involved with the client or former client, due to the non professional interaction, the licensee must show evidence of an attempt to remedy such harm. Examples of potentially beneficial interactions include, but are not limited to:

i. - iii. ...

e. **Role Changes in the Professional Relationship.** When a licensee changes a role from the original or most recent contracted relationship, he or she obtains informed consent from the client and explains the right of the client to refuse services related to the change. Examples of role changes include:

i. - ii. ...

iii. changing from a licensee to a researcher role (i.e., enlisting clients as research participants), or vice versa; and

iv. changing from a licensee to a mediator role, or vice versa.

(a). Clients must be fully informed of any anticipated consequences (e.g., financial, legal, personal, or therapeutic) of licensee role changes.

6. **Roles and Relationships at Individual, Group, Institutional and Societal Levels**

a. **Advocacy.** When appropriate, licensees advocate at individual, group, institutional, and societal levels to examine potential barriers and obstacles that inhibit access and/or the growth and development of clients.

b. **Confidentiality and Advocacy.** Licensees obtain client consent prior to engaging in advocacy efforts on behalf of an identifiable client to improve the provision of services and to work toward removal of systemic barriers or obstacles that inhibit client access, growth, and development.

#### 7. Multiple Clients

a. When a licensee agrees to provide counseling services to two or more persons who have a relationship, the licensee clarifies at the outset which person or persons are clients and the nature of the relationships the licensee will have with each involved person. If it becomes apparent that the licensee may be called upon to perform potentially conflicting roles, the licensee will clarify, adjust, or withdraw from roles appropriately.

#### 8. Group Work

a. **Screening.** Licensees screen prospective group counseling/therapy participants. To the extent possible, licensees select members whose needs and goals are

compatible with goals of the group, who will not impede the group process, and whose well-being will not be jeopardized by the group experience.

b. **Protecting Clients.** In a group setting, licensees take reasonable precautions to protect clients from physical, emotional, or psychological trauma.

#### 9. End-of-Life Care for Terminally Ill Clients

a. **Quality of Care.** Licensees strive to take measures that enable clients:

i. - iv. ...

b. **Licensee Competence, Choice, and Referral.** Recognizing the personal, moral, and competence issues related to end-of-life decisions, licensees may choose to work or not work with terminally ill clients who wish to explore their end-of-life options. Licensees provide appropriate referral information to ensure that clients receive the necessary help.

c. **Confidentiality.** Licensees who provide services to terminally ill individuals who are considering hastening their own deaths have the option of breaking or not breaking confidentiality, depending on applicable laws and the specific circumstances of the situation and after seeking consultation or supervision from appropriate professional and legal parties.

#### 10. Fees and Bartering

a. **Accepting Fees from Agency Clients.** Licensees refuse a private fee or other remuneration for rendering services to persons who are entitled to such services through the licensee's employing agency or institution. The policies of a particular agency may make explicit provisions for agency clients to receive counseling services from members of its staff in private practice. In such instances, the clients must be informed of other options open to them should they seek private counseling services.

b. **Establishing Fees.** In establishing fees for professional counseling services, licensees consider the financial status of clients and locality. In the event that the established fee structure is inappropriate for a client, licensees assist clients in attempting to find comparable services of acceptable cost.

c. **Nonpayment of Fees.** If licensees intend to use collection agencies or take legal measures to collect fees from clients who do not pay for services as agreed upon, they first inform clients of intended actions and offer clients the opportunity to make payment.

d. **Bartering.** Licensees may barter only if the relationship is not exploitive or harmful and does not place the licensee in an unfair advantage, if the client requests it, and if such arrangements are an accepted practice among professionals in the community. Licensees consider the cultural implications of bartering and discuss relevant concerns with clients and document such agreements in a clear written contract.

e. **Receiving Gifts.** Licensees understand the challenges of accepting gifts from clients and recognize that in some cultures, small gifts are a token of respect and showing gratitude. When determining whether or not to accept a gift from clients, licensees take into account the therapeutic relationship, the monetary value of the gift, a client's motivation for giving the gift, and the licensee's motivation for wanting or declining the gift.

## 11. Termination and Referral

a. **Abandonment Prohibited.** Licensees do not abandon or neglect clients in counseling and inform clients of professional limitations. Licensees assist in making appropriate arrangements for the continuation of treatment, when necessary, during interruptions such as vacations, illness, and following termination.

b. **Inability to Assist Clients.** If licensees determine an inability to be of professional assistance to clients, they avoid entering or continuing counseling relationships. Licensees are knowledgeable about culturally and clinically appropriate referral resources and suggest these alternatives. If clients decline the suggested referrals, licensees should discontinue the relationship.

c. **Appropriate Termination.** Licensees terminate a counseling relationship when it becomes reasonably apparent that the client no longer needs assistance, is not likely to benefit, or is being harmed by continued counseling. Licensees may terminate counseling when in jeopardy of harm by the client, or another person with whom the client has a relationship, or when clients do not pay fees as agreed upon. Licensees provide pretermination counseling and recommend other service providers when necessary.

d. **Appropriate Transfer of Services.** When licensees transfer or refer clients to other practitioners, they ensure that appropriate clinical and administrative processes are completed and open communication is maintained with both clients and practitioners.

## 12. Technology Applications

a. **Benefits and Limitations.** Licensees inform clients of the benefits and limitations of using information technology applications in the counseling process and in business/billing procedures. Such technologies include, but are not limited to:

i. - vi. ...

b. **Technology-Assisted Services.** When providing technology-assisted distance counseling services, licensees determine that clients are intellectually, emotionally, and physically capable of using the application and that the application is appropriate for the needs of clients.

c. **Inappropriate Services.** When technology-assisted distance counseling services are deemed inappropriate by the licensee or client, licensees consider delivering services face-to-face.

d. **Access.** Licensees provide reasonable access to computer applications when providing technology-assisted distance counseling services.

e. **Laws and Statutes.** Licensees ensure that the use of technology does not violate the laws of any local, state, national, or international entity and observe all relevant statutes.

f. **Assistance.** Licensees seek business, legal, and technical assistance when using technology applications, particularly when the use of such applications crosses state or national boundaries.

g. **Technology and Informed Consent.** As part of the process of establishing informed consent, licensees do the following:

i. - v. ...

vi. when the use of encryption is not possible, licensees notify clients of this fact and limit electronic

transmissions to general communications that are not client specific;

vii. - viii. ...

ix. inform clients of emergency procedures, such as calling 911 or a local crisis hotline, when the licensee is not available;

x. - xi. ...

h. **Sites on the World Wide Web.** Licensees maintaining sites on the world wide web (the internet) do the following:

i. ...

ii. establish ways clients can contact the licensee in case of technology failure;

iii. - viii. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:622 (August 1989), amended LR 24:438 (March 1998), LR 29:142 (February 2003), LR 39:1792 (July 2013), LR 41:725 (April 2015).

## **§2105. Confidentiality, Privileged Communication, and Privacy**

A. Licensees recognize that trust is a cornerstone of the counseling relationship. Licensees aspire to earn the trust of clients by creating an ongoing partnership, establishing and upholding appropriate boundaries, and maintaining confidentiality. Licensees communicate the parameters of confidentiality in a culturally competent manner.

### 1. Respecting Client Rights

#### a. Multicultural/Diversity Considerations.

Licensees maintain awareness and sensitivity regarding cultural meanings of confidentiality and privacy. Licensees respect differing views toward disclosure of information. Licensees hold ongoing discussions with clients as to how, when, and with whom information is to be shared.

b. **Respect for Privacy.** Licensees shall respect their clients' right to privacy and avoid legal and unwarranted disclosures of confidential information.

c. **Respect for Confidentiality.** Licensees do not share confidential information without client consent. The right to privacy may be waived by the client or their legally recognized representative.

d. **Explanation of Limitations.** At initiation and throughout the counseling process, licensees inform clients of the limitations of confidentiality and seek to identify foreseeable situations in which confidentiality must be breached.

### 2. Exceptions

a. **Danger and Legal Requirements.** The general requirement that licensees shall keep information confidential does not apply when disclosure is required because a patient has communicated a threat of physical violence, which is deemed to be significant in the clinical judgment of the licensee, against a clearly identified victim or victims, coupled with the apparent intent and ability to carry out such threat, or when legal requirements otherwise demand that confidential information be revealed. Licensee shall consult with other professionals when in doubt as to the validity of an exception.

b. **Contagious, Life-Threatening Diseases.** When clients disclose that they have a disease commonly known to



be both communicable and life threatening, licensees may be justified in disclosing information to identifiable third parties, if they are known to be at demonstrable and high risk of contracting the disease. Prior to making a disclosure, licensees confirm that there is such a diagnosis and assess the intent of clients to inform the third parties about their disease or to engage in any behaviors that may be harmful to an identifiable third party.

c. Court-Ordered Disclosure. When subpoenaed to release confidential or privileged information without a client's permission, licensees obtain written, informed consent from the client or take steps to prohibit the disclosure or have it limited as narrowly as possible due to potential harm to the client or counseling relationship.

d. ...

### 3. Information Shared with Others

a. Subordinates. Licensees make every effort to ensure that privacy and confidentiality of clients are maintained by subordinates, including employees, supervisees, students, clerical assistants, and volunteers.

b. ...

c. Confidential Settings. Licensees discuss confidential information only in settings in which they can reasonably ensure client privacy.

d. Third-Party Payers. Licensees disclose information to third-party payers only when clients have authorized such disclosure.

e. Transmitting Confidential Information. Licensees take precautions to ensure the confidentiality of information transmitted through the use of:

i. - vii. ...

f. Deceased Clients. Licensees protect the confidentiality of deceased clients, consistent with legal requirements and agency or setting policies.

### 4. Groups and Families

a. ...

b. Couples and Family Counseling. In couples and family counseling, licensees clearly define who is considered "the client" and discuss expectations and limitations of confidentiality. Licensees seek agreement and document in writing such agreement among all involved parties having capacity to give consent concerning each individual's right to confidentiality and any obligation to preserve the confidentiality of information known.

### 5. Clients Lacking Capacity to Give Informed Consent

a. Responsibility to Clients. When counseling minor clients or adult clients who lack the capacity to give voluntary, informed consent, licensees protect the confidentiality of information received in the counseling relationship as specified by federal and state laws, written policies, and applicable ethical standards.

b. Responsibility to Parents and Legal Guardians. Licensees inform parents and legal guardians about the role of licensees and the confidential nature of the counseling relationship. Licensees are sensitive to the cultural diversity of families and respect the inherent rights and responsibilities of parents/guardians over the welfare of their children/charges according to law. Licensees work to establish, as appropriate, collaborative relationships with parents/guardians to best serve clients.

c. Release of Confidential Information. When counseling minor clients or adult clients who lack the capacity to give voluntary consent to release confidential information, licensees seek permission from an appropriate third party to disclose information. In such instances, licensees inform clients consistent with their level of understanding and take culturally appropriate measures to safeguard client confidentiality.

### 6. Records

a. Confidentiality of Records. Licensees ensure that records are kept in a secure location and that only authorized persons have access to records.

b. Permission to Record. Licensees obtain permission from clients prior to recording sessions through electronic or other means.

c. Permission to Observe. Licensees obtain permission from clients prior to observing counseling sessions, reviewing session transcripts, or viewing recordings of sessions with supervisors, faculty, peers, or others within the training environment.

d. Client Access. Licensees provide reasonable access to records and copies of records when requested by competent clients. Licensees limit the access of clients to their records, or portions of their records, only when there is compelling evidence that such access would cause harm to the client. Licensees document the request of clients and the rationale for withholding some or all of the record in the files of clients. In situations involving multiple clients, licensees provide individual clients with only those parts of records that related directly to them and do not include confidential information related to any other client.

e. Assistance with Records. When clients request access to their records, licensees provide assistance and consultation in interpreting counseling records.

f. Disclosure or Transfer. Unless exceptions to confidentiality exist, licensees obtain written permission from clients to disclose or transfer records to legitimate third parties. Steps are taken to ensure that receivers of counseling records are sensitive to their confidential nature.

g. Storage and Disposal after Termination. Licensees store records following termination of services to ensure reasonable future access, maintain records in accordance with state and federal statutes governing records, and dispose of client records and other sensitive materials in a manner that protects client confidentiality. When records are of an artistic nature, licensees obtain client (or guardian) consent with regards to handling of such records or documents.

h. Reasonable Precautions. Licensees take reasonable precautions to protect client confidentiality in the event of the licensee's termination of practice, incapacity, or death.

### 7. Research and Training

a. Institutional Approval. When institutional approval is required, licensees provide accurate information about their research proposals and obtain approval prior to conducting their research. They conduct research in accordance with the approved research protocol.

b. Adherence to Guidelines. Licensees are responsible for understanding and adhering to state, federal, agency, or institutional policies or applicable guidelines regarding confidentiality in their research practices.

c. ...

d. **Disclosure of Research Information.** Licensees do not disclose confidential information that reasonably could lead to the identification of a research participant unless they have obtained the prior consent of the person. Use of data derived from counseling relationships for purposes of training, research, or publication is confined to content that is disguised to ensure the anonymity of the individuals involved.

e. ...

8. **Consultation**

a. **Agreements.** When acting as consultants, licensees seek agreements among all parties involved concerning each individual's rights to confidentiality, the obligation of each individual to preserve confidential information, and the limits of confidentiality of information shared by others.

b. ...

c. **Disclosure of Confidential Information.** When consulting with colleagues, licensees do not disclose confidential information that reasonably could lead to the identification of a client or other person or organization with whom they have a confidential relationship unless they have obtained the prior consent of the person or organization or the disclosure cannot be avoided. They disclose information only to the extent necessary to achieve the purposes of the consultation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:623 (August 1989), amended LR 24:440 (March 1998), LR 29:144 (February 2003), LR 39:1796 (July 2013), LR 41:728 (April 2015).

**§2107. Professional Responsibilities**

A. Licensees aspire to open, honest, and accurate communication in dealing with the public and other professionals. They practice in a non-discriminatory manner within the boundaries of professional and personal competence and have a responsibility to abide by the code of conduct and standards of practice. Licensees actively participate in local, state, and national associations that foster the development and improvement of counseling. Licensees advocate to promote change at the individual, group, institutional, and societal levels that improves the quality of life for individuals and groups and remove potential barriers to the provision or access of appropriate services being offered. Licensees have a responsibility to the public to engage in counseling practices that are based on rigorous research methodologies. In addition, licensees engage in self-care activities to maintain and promote their emotional, physical, mental, and spiritual well-being to best meet their professional responsibilities.

1. **Knowledge of Standards**

a. Licensees have a responsibility to read, understand, and follow the code of conduct and standards of practice and adhere to applicable laws and regulations.

2. **Professional Competence**

a. **Boundaries of Competence.** Licensees practice only within the boundaries of their competence, based on their education, training, supervised experience, state and national professional credentials, and appropriate

professional experience. Licensees gain knowledge, personal awareness, sensitivity, and skills pertinent to working with a diverse client population. All licensees must submit to the board a written statement of area(s) of intended practice along with supporting documentation of qualifications for the respective area(s) in which practice is intended.

b. **New Specialty Areas of Practice.** Licensees practice in specialty areas new to them only after appropriate education, training, and supervised experience. While developing skills in new specialty areas, licensees take steps to ensure the competence of their work and to protect others from possible harm. All licensees must submit to the board a written statement of new area(s) of intended practice along with supporting documentation of qualifications for the respective area(s) in which practice is intended before claiming said specialty area(s). At the discretion of the board an oral examination may be required before approval of specialty area(s).

c. **Qualified for Employment.** Licensees accept employment only for positions for which they are qualified by education, training, supervised experience, state and national professional credentials, and appropriate professional experience. Licensees hire for professional counseling positions only individuals who are qualified and competent for those positions.

d. **Monitor Effectiveness.** Licensees continually monitor their effectiveness as professionals and take steps to improve when necessary. Licensees in private practice take reasonable steps to seek peer supervision as needed to evaluate their efficacy as licensees.

e. **Consultation on Ethical Obligations.** Licensees take reasonable steps to consult with other licensees or related professionals when they have questions regarding their ethical obligations or professional practice.

f. **Continuing Education.** Licensees recognize the need for continuing education to acquire and maintain a reasonable level of awareness of current scientific and professional information in their fields of activity. They take steps to maintain competence in the skills they use, are open to new procedures, and keep current with the diverse populations and specific populations with whom they work.

g. **Impairment.** Licensees are alert to the signs of impairment from their own physical, mental, or emotional problems and refrain from offering or providing professional services when such impairment is likely to harm a client or others. They seek assistance for problems that reach the level of professional impairment, and, if necessary, they limit, suspend, or terminate their professional responsibilities until such time it is determined that they may safely resume their work. Licensees assist colleagues or supervisors in recognizing their own professional impairment and provide consultation and assistance when warranted with colleagues or supervisors showing signs of impairment and intervene as appropriate to prevent imminent harm to clients.

h. **Licensees Incapacitation or Termination of Practice.** When licensees leave a practice, they follow a prepared plan for transfer of clients and files. Licensees prepare and disseminate to an identified colleague or "records custodian" a plan for the transfer of clients and files in the case of their incapacitation, death, or termination of practice (see §2105.A.6.h).

3. **Advertising and Soliciting Clients**

a. **Accurate Advertising.** When advertising or otherwise representing their services to the public, licensees identify their credentials in an accurate manner that is not false, misleading, deceptive, or fraudulent.

b. **Testimonials.** Licensees who use testimonials do not solicit them from current clients nor former clients nor any other persons who may be vulnerable to undue influence.

c. **Statements by Others.** Licensees make reasonable efforts to ensure that statements made by others about them or the profession of counseling are accurate.

d. **Recruiting Through Employment.** Licensees do not use their places of employment or institutional affiliation to recruit or gain clients, supervisees, or consultees for their private practices.

e. **Products and Training Advertisements.** Licensees who develop products related to their profession or conduct workshops or training events ensure that the advertisements concerning these products or events are accurate and disclose adequate information for consumers to make informed choices.

f. **Promoting to Those Served.** Licensees do not use counseling, teaching, training, or supervisory relationships to promote their products or training events in a manner that is deceptive or would exert undue influence on individuals who may be vulnerable. However, counselor educators may adopt textbooks they have authored for instructional purposes.

#### 4. Professional Qualifications

a. **Accurate Representation.** Licensees claim or imply only professional qualifications actually completed and correct any known misrepresentations of their qualifications by others. Licensees truthfully represent the qualifications of their professional colleagues. Licensees clearly distinguish between paid and volunteer work experience and accurately describe their continuing education and specialized training.

b. **Credentials.** Licensees claim only licenses or certifications that are current and in good standing.

c. **Educational Degrees.** Licensees clearly differentiate between earned and honorary degrees.

d. **Implying Doctoral-Level Competence.** Licensees clearly state their highest earned degree in counseling or closely related field. Licensees do not imply doctoral-level competence when only possessing a master's degree in counseling or a related field by referring to themselves as "Dr." in a counseling context when their doctorate is not in counseling or related field. A doctoral degree in counseling or a closely related field is defined as a doctoral degree from a regionally accredited university that shall conform to one of the criteria below:

i. ...

ii. a doctoral counseling program incorporating the word "counseling" or "counselor" in its title;

iii. a doctoral program incorporating a counseling-related term in its title (e.g., "marriage and family therapy"); or

iv. ...

e. **Program Accreditation Status.** Licensees clearly state the accreditation status of their degree programs at the time the degree was earned.

f. **Professional Membership.** Licensees clearly differentiate between current, active memberships and former memberships in associations. Members of the American Counseling Association must clearly differentiate between professional membership, which implies the possession of at least a master's degree in counseling, and regular membership, which is open to individuals whose interests and activities are consistent with those of ACA but are not qualified for professional membership.

#### 5. Nondiscrimination

a. Licensees do not condone or engage in discrimination based on age, culture, disability, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital status/partnership, language preference, socioeconomic status, or any basis proscribed by law. Licensees do not discriminate against clients, students, employees, supervisees, or research participants in a manner that has a negative impact on these persons.

#### 6. Public Responsibility

a. **Sexual Harassment.** Licensees do not engage in or condone sexual harassment.

*Sexual Harassment*—sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with professional activities or roles, and that either

(a) is unwelcome, is offensive, or creates a hostile workplace or learning environment, and licensees know or are told this; or

(b) ...

b. **Reports to Third Parties.** Licensees are accurate, honest, and objective in reporting their professional activities and judgments to appropriate third parties, including courts, health insurance companies, those who are the recipients of evaluation reports, and others.

c. **Media Presentations.** When licensees provide advice or comment by means of public lectures, demonstrations, radio or television programs, prerecorded tapes, technology-based applications, printed articles, mailed material, or other media, they take reasonable precautions to ensure that:

i. - iii. ...

d. **Exploitation of Others.** Licensees do not exploit others in their professional relationships.

e. **Scientific Bases for Treatment Modalities.** Licensees use techniques/procedures/modalities that are grounded in theory and/or have an empirical or scientific foundation. Licensees who do not must define the techniques/procedures as "unproven" or "developing" and explain the potential risks and ethical considerations of using such techniques/procedures and take steps to protect clients from possible harm.

#### 7. Responsibility to Other Professionals

a. **Personal Public Statements.** When making personal statements in a public context, licensees clarify that they are speaking from their personal perspectives and that they are not speaking on behalf of all licensees or the profession.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:624 (August 1989), amended LR 24:441 (March

1998), LR 26:496 (March 2000), LR 29:145 (February 2003), LR 39:1798 (July 2013), LR 41:730 (April 2015).

#### **§2109. Relationships with Other Professionals**

A. Professional licensees recognize that the quality of their interactions with colleagues can influence the quality of services provided to clients. They work to become knowledgeable about colleagues within and outside the field of counseling. Licensees develop positive working relationships and systems of communication with colleagues to enhance services to clients.

1. Relationships with Colleagues, Employers, and Employees

a. Different Approaches. Licensees are respectful of approaches to counseling services that differ from their own. Licensees are respectful of traditions and practices of other professional groups with which they work.

b. Forming Relationships. Licensees work to develop and strengthen interdisciplinary relations with colleagues from other disciplines to best serve clients.

c. Interdisciplinary Teamwork. Licensees who are members of interdisciplinary teams delivering multifaceted services to clients keep the focus on how to best serve the clients. They participate in and contribute to decisions that affect the well-being of clients by drawing on the perspectives, values, and experiences of the counseling profession and those of colleagues from other disciplines.

d. Confidentiality. When licensees are required by law, institutional policy, or extraordinary circumstances to serve in more than one role in judicial or administrative proceedings, they clarify role expectations and the parameters of confidentiality with their colleagues.

e. Establishing Professional and Ethical Obligations. Licensees who are members of interdisciplinary teams clarify professional and ethical obligations of the team as a whole and of its individual members. When a team decision raises ethical concerns, licensees first attempt to resolve the concern within the team. If they cannot reach resolution among team members, licensees pursue other avenues to address their concerns consistent with client well-being.

f. Personnel Selection and Assignment. Licensees select competent staff and assign responsibilities compatible with their skills and experiences.

g. Employer Policies. The acceptance of employment in an agency or institution implies that licensees are in agreement with its general policies and principles. Licensees strive to reach agreement with employers as to acceptable standards of conduct that allow for changes in institutional policy conducive to the growth and development of clients.

h. Negative Conditions. Licensees alert their employers of inappropriate policies and practices. They attempt to effect changes in such policies or procedures through constructive action within the organization. When such policies are potentially disruptive or damaging to clients or may limit the effectiveness of services provided and change cannot be effected, licensees take appropriate further action. Such action may include referral to appropriate certification, accreditation, or state licensure organizations, or voluntary termination of employment.

i. Protection from Punitive Action. Licensees take care not to harass or dismiss an employee who has acted in a

responsible and ethical manner to expose inappropriate employer policies or practices.

#### **2. Consultation**

a. Consultant Competency. Licensees take reasonable steps to ensure that they have the appropriate resources and competencies when providing consultation services. Licensees provide appropriate referral resources when requested or needed.

b. Understanding Consultees. When providing consultation, licensees attempt to develop with their consultees a clear understanding of problem definition, goals for change, and predicted consequences of interventions selected.

c. ...

d. Informed Consent in Consultation. When providing consultation, licensees have an obligation to review, in writing and verbally, the rights and responsibilities of both licensees and consultees. Licensees use clear and understandable language to inform all parties involved about the purpose of the services to be provided, relevant costs, potential risks and benefits, and the limits of confidentiality. Working in conjunction with the consultee, licensees attempt to develop a clear definition of the problem, goals for change, and predicted consequences of interventions that are culturally responsive and appropriate to the needs of consultees.

e. Consultation with Medical Practitioners. In the event a client is diagnosed with a "serious mental illness", licensees must consult and collaborate on an ongoing basis with a practitioner who is licensed by the Louisiana State Board of Medical Examiners and is authorized to prescribe medications in the management of psychiatric illness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

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#### **§2111. Evaluation, Appraisal, and Interpretation**

##### **A. General**

1. Appraisal Techniques. The primary purpose of appraisal (henceforth known as "appraisal") is to provide measures that are objective and interpretable in either comparative or absolute terms. Licensees shall recognize the need to interpret the statements in this Section as applying to the whole range of appraisal techniques, including test and non-test data. Licensees shall recognize their legal parameters in utilizing formalized appraisal techniques and adhere to such.

2. Client Welfare. Licensees shall promote the welfare and best interests of the client in the development, publication and utilization of appraisal techniques. They shall not misuse appraisal results and interpretations and shall take reasonable steps to prevent others from misusing the information these techniques provide. They shall respect the client's right to know the result, the interpretations made, and the bases for their conclusions and recommendations.

##### **B. Competence to Use and Interpret Tests**

1. Limits of Competence. Licensees shall recognize the limits of their competence and perform only those testing and appraisal services for which they have been trained and is within R.S. 37:1101-1122. They shall be familiar with

reliability, validity, related standardization, error of measurement, and proper application of any technique utilized. Licensees using computer-based test interpretations shall be trained in the construction being measured and the specific instrument being used prior to using this type of computer application. Licensees shall take reasonable measures to ensure the proper use of formalized appraisal techniques by persons under their supervision.

2. **Appropriate Use.** Licensees shall be responsible for the appropriate application, scoring, interpretation, and use of appraisal instruments, whether they score and interpret such tests themselves or use computerized or other services.

3. **Decisions Based on Results.** Licensees shall be responsible for decisions involving individuals or policies that are based on appraisal results have a thorough understanding of formalized measurement technique, including validation criteria, test research, and guidelines for test development and use.

4. **Accurate Information.** Licensees shall provide accurate information and avoid false claims or misconceptions when making statements about formalized appraisal instruments or techniques.

#### C. Informed Consent

1. **Explanation to Clients.** Prior to performing such, licensees shall explain the nature and purposes of a formal appraisal and the specific use of results in language the client (or other legally authorized person on behalf of the client) can understand, unless as explicit exception to this right has been agreed upon in advance. Regardless of whether scoring and interpretation are completed by licensees or by computer or other outside services, licensees shall take reasonable steps to ensure that appropriate explanations are given to the client.

2. **Recipients of Results.** The examinee's welfare, explicit understanding, and prior agreement shall determine the recipients of test results. Licensees shall include accurate and appropriate interpretations with any release of individual or group test results.

#### D. Release of Information to Competent Professionals

1. **Misuse of Results.** Licensees shall not misuse appraisal results, including test results, and interpretations, and shall take reasonable steps to prevent the misuse of such by others.

2. **Release of Raw Data.** Licensees shall ordinarily release data (e.g., protocols, counseling or interview notes, or questionnaires) in which the client is identified only with the consent of the client or the client's legal representative. Such data are usually released only to persons recognized by counselors as competent to interpret the data.

#### E. Test Selection

1. **Appropriateness of Instruments.** Licensees shall carefully consider the validity, reliability, psychometric limitations, and appropriateness of instruments when selecting tests for use in a given situation or with a particular client.

2. **Culturally Diverse Populations.** Licensees shall be cautious when selecting tests for culturally diverse populations to avoid inappropriateness of testing that may be outside of socialized behavioral or cognitive patterns.

#### F. Conditions of Test Administration

1. **Administration Conditions.** Licensees shall administer tests under the same conditions that were

established in their standardization. When tests are not administered under standard conditions or when unusual behavior or irregularities occur during the testing session, those conditions shall be noted in interpretation, and the results may be designated as invalid or of questionable validity.

2. **Computer Administration.** Licensees shall be responsible for ensuring that administration programs function properly to provide clients with accurate results when a computer or other electronic methods are used for test administration.

3. **Unsupervised Test-Taking.** Licensees shall not permit unsupervised or inadequately supervised use of tests or appraisals unless the tests or appraisals are designed, intended, and validated for self-administration and/or scoring.

#### 4. ...

G. **Diversity in Testing** Licensees shall be cautious in using appraisal techniques, making evaluations, and interpreting the performance of populations not represented in the norm group on which an instrument was standardized. They shall recognize the effects of age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, and socioeconomic status on test administration and interpretation and place test results in proper perspective with other relevant factors.

#### H. Test Scoring and Interpretation

1. **Reporting Reservations.** In reporting appraisal results, licensees shall indicate any reservations that exist regarding validity or reliability because of the circumstances of the appraisal or the inappropriateness of the norms for the person tested.

2. **Research Instruments.** Licensees shall exercise caution when interpreting the results of research instruments possessing insufficient technical data to support respondent results. The specific purposes for the use of such instruments shall be stated explicitly to the examinee.

3. **Testing Services.** Licensees who provide test scoring and test interpretation services to support the appraisal process shall confirm the validity of such interpretations. They shall accurately describe the purpose, norms, validity, reliability, and applications of the procedures and any special qualifications applicable to their use. The public offering of an automated test interpretations service is shall be considered a professional-to-professional consultation. The formal responsibility of the consultant shall be to the consultee, but the ultimate and overriding responsibility shall be to the client.

I. **Test Security.** Licensees shall maintain the integrity and security of tests and other appraisal techniques consistent with legal and contractual obligations. Licensees shall not appropriate, reproduce, or modify published tests or parts thereof without acknowledgment and permission from the publisher.

J. **Obsolete Tests and Outdated Test Results.** Licensees shall not use data or test results that are obsolete or outdated for the current purpose. Licensees shall make every effort to prevent the misuse of obsolete measures and test data by others.

K. **Test Construction.** Licensees shall use established scientific procedures, relevant standards, and current

professional knowledge for test design in the development, publication, and utilization of appraisal techniques.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:625 (August 1989), amended LR 24:443 (March 1998), LR 29:147 (February 2003), LR 41:732 (April 2015).

### **§2113. Supervision, Training, and Teaching**

A. Licensees aspire to foster meaningful and respectful professional relationships and to maintain appropriate boundaries with supervisees and students. Licensees have theoretical and pedagogical foundations for their work and aim to be fair, accurate, and honest in their assessments of counselors-in-training.

#### **1. Provisional Licensed Professional Counselor Supervision and Client Welfare**

a. Client Welfare. A primary obligation of counseling supervisors is to monitor the services provided by other licensees or counselors-in-training. Counseling supervisors monitor client welfare and supervisee clinical performance and professional development. To fulfill these obligations, supervisors meet regularly with supervisees to review case notes, samples of clinical work, or live observations. Supervisees have a responsibility to understand and follow the code of conduct and standards of practice.

b. Provisional Licensed Professional Counselor Credentials. Counseling supervisors work to ensure that clients are aware of the qualifications of the supervisees who render services to the clients.

c. ...

#### **2. Provisional Licensed Professional Counselor Supervision Competence**

a. Supervisor Preparation. Prior to offering clinical supervision services, licensed professional counselors are trained in supervision methods and techniques. Licensed professional counselors who offer clinical supervision services regularly pursue continuing education activities including both counseling and supervision topics and skills.

2.b. - 3.b. ...

e. Potentially Beneficial Relationships. Counseling supervisors are aware of the power differential in their relationships with supervisees. If they believe nonprofessional relationships with a supervisee may be potentially beneficial to the supervisee, they take precautions similar to those taken by licensees when working with clients. Examples of potentially beneficial interactions or relationships include attending a formal ceremony; hospital visits; providing support during a stressful event; or mutual membership in a professional association, organization, or community. Counseling supervisors engage in open discussions with supervisees when they consider entering into relationships with them outside of their roles as clinical and/or administrative supervisors. Before engaging in nonprofessional relationships, supervisors discuss with supervisees and document the rationale for such interactions, potential benefits or drawbacks, and anticipated consequences for the supervisee. Supervisors clarify the specific nature and limitations of the additional role(s) they will have with the supervisee.

4. - 4.b....

c. Standards for Supervisees. Supervisors make their supervisees aware of professional and ethical standards and legal responsibilities. Supervisors of provisional licensed professional counselors encourage these supervisees to adhere to professional standards of practice.

4.d. - 5.b. ...

c. Counseling for Supervisees. If supervisees request counseling, supervisors provide them with acceptable referrals. Supervisors do not provide counseling services to their supervisees. Supervisors address interpersonal competencies in terms of the impact of these issues on clients, the supervisory relationship, and professional functioning (see F.3.a).

5.d. - 7.b. ...

#### **8. Student Responsibilities**

a. Standards for Students. Counselors-in-training have a responsibility to understand and follow the ACA code of ethics and Code of Conduct adopted by the LPC Board and adhere to applicable laws, regulatory policies, and rules and policies governing professional staff behavior at the agency or placement setting. Students have the same obligation to clients as those required of licensees.

b. ...

#### **9. Evaluation and Remediation of Students**

a. Evaluation. Counselor educators clearly state to students, prior to and throughout the training program, the levels of competency expected, appraisal methods, and timing of evaluations for both didactic and clinical competencies. Counselor educators provide students with ongoing performance appraisal and evaluation feedback throughout the training program.

9.b. - 10.e. ...

f. Potentially Beneficial Relationships. Counselor educators are aware of the power differential in the relationship between faculty and students. If they believe a nonprofessional relationship with a student may be potentially beneficial to the student, they take precautions similar to those taken by licensees when working with clients. Examples of potentially beneficial interactions or relationships include, but are not limited to, attending a formal ceremony; hospital visits; providing support during a stressful event; or mutual membership in a professional association, organization, or community. Counselor educators engage in open discussions with students when they consider entering into relationships with students outside of their roles as teachers and supervisors. They discuss with students the rationale for such interactions, the potential benefits and drawbacks, and the anticipated consequences for the student. Educators clarify the specific nature and limitations of the additional role(s) they will have with the student prior to engaging in a nonprofessional relationship. Nonprofessional relationships with students should be time-limited and initiated with student consent.

11. - 11.c....

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:626 (August 1989), amended LR 24:445 (March 1998), LR 29:149 (February 2003), LR 39:1800 (July 2013), LR 41:734 (April 2015).

## §2115. Research and Publication

A. Licensees who conduct research are encouraged to contribute to the knowledge base of the profession and promote a clearer understanding of the conditions that lead to a healthy and more just society. Licensees support efforts of researchers by participating fully and willingly whenever possible. Licensees minimize bias and respect diversity in designing and implementing research programs.

### 1. Research Responsibilities

a. Use of Human Research Participants. Licensees plan, design, conduct, and report research in a manner that is consistent with pertinent ethical principles, federal and state laws, host institutional regulations, and scientific standards governing research with human research participants.

b. Deviation from Standard Practice. Licensees seek consultation and observe stringent safeguards to protect the rights of research participants when a research problem suggests a deviation from standard or acceptable practices.

c. ...

d. Precautions to Avoid Injury. Licensees who conduct research with human participants are responsible for the welfare of participants throughout the research process and should take reasonable precautions to avoid causing injurious psychological, emotional, physical, or social effects to participants.

e. ...

f. Minimal Interference. Licensees take reasonable precautions to avoid causing disruptions in the lives of research participants that could be caused by their involvement in research.

g. Multicultural/Diversity Considerations in Research. When appropriate to research goals, licensees are sensitive to incorporating research procedures that take into account cultural considerations. They seek consultation when appropriate.

### 2. Rights of Research Participants

a. Informed Consent in Research. Individuals have the right to consent to become research participants. In seeking consent, licensees use language that:

i. - ix. ...

b. Deception. Licensees do not conduct research involving deception unless alternative procedures are not feasible and the prospective value of the research justifies the deception. If such deception has the potential to cause physical or emotional harm to research participants, the research is not conducted, regardless of prospective value. When the methodological requirements of a study necessitate concealment or deception, the investigator explains the reasons for this action as soon as possible during the debriefing.

c. ...

d. Client Participation. Licensees conducting research involving clients make clear in the informed consent process that clients are free to choose whether or not to participate in research activities. Licensees take necessary precautions to protect clients from adverse consequences of declining or withdrawing from participation.

e. ...

f. Persons Not Capable of Giving Informed Consent. When a person is not capable of giving informed consent, licensees provide an appropriate explanation to,

obtain agreement for participation from, and obtain the appropriate consent of a legally authorized person.

g. Commitments to Participants. Licensees take reasonable measures to honor all commitments to research participants.

h. Explanations after Data Collection. After data are collected, licensees provide participants with full clarification of the nature of the study to remove any misconceptions participants might have regarding the research. Where scientific or human values justify delaying or withholding information, licensees take reasonable measures to avoid causing harm.

i. Informing Sponsors. Licensees inform sponsors, institutions, and publication channels regarding research procedures and outcomes. Licensees ensure that appropriate bodies and authorities are given pertinent information and acknowledgement.

j. Disposal of Research Documents and Records. Within a reasonable period of time following the completion of a research project or study, licensees take steps to destroy records or documents (audio, video, digital, and written) containing confidential data or information that identifies research participants. When records are of an artistic nature, researchers obtain participant consent with regard to handling of such records or documents.

3. - 3.d. ...

### 4. Reporting Results

a. Accurate Results. Licensees plan, conduct, and report research accurately. They provide thorough discussions of the limitations of their data and alternative hypotheses. Licensees do not engage in misleading or fraudulent research, distort data, misrepresent data, or deliberately bias their results. They explicitly mention all variables and conditions known to the investigator that may have affected the outcome of a study or the interpretation of data. They describe the extent to which results are applicable for diverse populations.

b. Obligation to Report Unfavorable Results. Licensees report the results of any research of professional value. Results that reflect unfavorably on institutions, programs, services, prevailing opinions, or vested interests are not withheld.

c. Reporting Errors. If licensees discover significant errors in their published research, they take reasonable steps to correct such errors in a correction erratum, or through other appropriate publication means.

d. Identity of Participants. Licensees who supply data, aid in the research of another person, report research results, or make original data available take due care to disguise the identity of respective participants in the absence of specific authorization from the participants to do otherwise. In situations where participants self-identify their involvement in research studies, researchers take active steps to ensure that data are adapted/changed to protect the identity and welfare of all parties and that discussion of results does not cause harm to participants.

e. Replication Studies. Licensees are obligated to make available sufficient original research data to qualified professionals who may wish to replicate the study.

### 5. Publication

a. Recognizing Contributions. When conducting and reporting research, licensees are familiar with and give

recognition to previous work on the topic, observe copyright laws, and give full credit to those to whom credit is due.

b. Plagiarism. Licensees do not plagiarize, that is, they do not present another person's work as their own work.

c. Review/Republication of Data or Ideas. Licensees fully acknowledge and make editorial reviewers aware of prior publication of ideas or data where such ideas or data are submitted for review or publication.

d. Contributors. Licensees give credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to those who have contributed significantly to research or concept development in accordance with such contributions. The principal contributor is listed first and minor technical or professional contributions are acknowledged in notes or introductory statements.

e. Agreement of Contributors. Licensees who conduct joint research with colleagues or students/supervisees establish agreements in advance regarding allocation of tasks, publication credit, and types of acknowledgement that will be received.

f. ...

g. Duplicate Submission. Licensees submit manuscripts for consideration to only one journal at a time. Manuscripts that are published in whole or in substantial part in another journal or published work are not submitted for publication without acknowledgment and permission from the previous publication.

h. Professional Review. Licensees who review material submitted for publication, research, or other scholarly purposes respect the confidentiality and proprietary rights of those who submitted it. Licensees use care to make publication decisions based on valid and defensible standards. Licensees review article submissions in a timely manner and based on their scope and competency in research methodologies. Licensees who serve as reviewers at the request of editors or publishers make every effort to only review materials that are within their scope of competency and use care to avoid personal biases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:626 (August 1989), amended LR 24:446 (March 1998), LR 29:150 (February 2003), 39:1803 (July 2013), LR 41:735 (April 2015).

#### **§2117. Resolving Ethical Issues**

A. Licensees behave in a legal, ethical, and moral manner in the conduct of their professional work. They are aware that client protection and trust in the profession depend on a high level of professional conduct. They hold other licensees to the same standards and are willing to take appropriate action to ensure that these standards are upheld. Licensees strive to resolve ethical dilemmas with direct and open communication among all parties involved and seek consultation with colleagues and supervisors when necessary. Licensees incorporate ethical practice into their daily professional work. They engage in ongoing professional development regarding current topics in ethical and legal issues in counseling.

#### **1. Standards and the Law**

a. Knowledge. Licensees understand the ACA code of conduct and other applicable ethics codes from other professional organizations or from certification and licensure bodies of which they are members. Lack of knowledge or misunderstanding of an ethical responsibility is not a defense against a charge of unethical conduct.

b. Conflicts between Ethics and Laws. If ethical responsibilities conflict with law, regulations, or other governing legal authority, licensees make known their commitment to the code of conduct and standards of practice and take steps to resolve the conflict. If the conflict cannot be resolved by such means, licensees may adhere to the requirements of law, regulations, or other governing legal authority.

#### **2. Suspected Violations**

a. Ethical Behavior Expected. Licensees expect colleagues to adhere to the code of conduct and standards of practice. When licensees possess knowledge that raises doubts as to whether another licensee is acting in an ethical manner, they take appropriate action.

b. Informal Resolution. When licensees have reason to believe that another licensee is violating or has violated an ethical standard, they attempt first to resolve the issue informally with the other licensee, if feasible, provided such action does not violate confidentiality rights that may be involved.

c. Reporting Ethical Violations. If an apparent violation has substantially harmed, or is likely to substantially harm a person or organization and is not appropriate for informal resolution or is not resolved properly, licensees take further action appropriate to the situation. Such action might include referral to state or national committees on professional ethics, voluntary national certification bodies, state licensing boards, or to the appropriate institutional authorities. This standard does not apply when an intervention would violate confidentiality rights or when licensees have been retained to review the work of another licensee whose professional conduct is in question.

d. Consultation. When uncertain as to whether a particular situation or course of action may be in violation of the code of conduct, licensees consult with other licensees who are knowledgeable about ethics and the code of conduct, with colleagues, or with appropriate authorities

e. Organizational Conflicts. If the demands of an organization with which licensees are affiliated pose a conflict with the code of conduct, licensees specify the nature of such conflicts and express to their supervisors or other responsible officials their commitment to the code of conduct. When possible, licensees work toward change within the organization to allow full adherence to the Code of Conduct of Ethics. In doing so, they address any confidentiality issues.

f. Unwarranted Complaints. Licensees do not initiate, participate in, or encourage the filing of ethics complaints that are made with reckless disregard or willful ignorance of facts that would disprove the allegation.

g. Unfair Discrimination against Complainants and Respondents. Licensees do not deny persons employment,



advancement, admission to academic or other programs, tenure, or promotion based solely upon their having made or their being the subject of an ethics complaint. This does not preclude taking action based upon the outcome of such proceedings or considering other appropriate information.

### 3. Cooperation with Ethics Committees

a. Licensees assist in the process of enforcing the code of conduct. Licensees cooperate with investigations, proceedings, and requirements of the LPC Board disciplinary committee. Licensees are familiar with the code of conduct as established by the LPC Board and the professional and occupational standards and procedures for processing complaints of ethical violations as it pertains to the enforcement of the code of conduct and standards of practice.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:626 (August 1989), amended LR 24:447 (March 1998), LR 29:151 (February 2003), LR 39:1805 (July 2013), LR 41:736 (April 2015).

## **§2118. Appendix—Declaration of Practices and Procedures for Licensed Professional Counselors and Provisional Licensed Professional Counselors**

A. The following comprises the information that must be available in writing for each client seen by a licensed professional counselor or provisional licensed professional counselor in the state of Louisiana. Licensed professional counselors or provisional licensed professional counselors must read and incorporate the Code of Conduct for Professional Counselors in their declaration statement.

1. Licensed professional counselor or provisional licensed professional counselor's name, mailing address, and telephone number.

### 2. Qualifications

a. ...

b. Give your license number, specifying the LPC Board of Examiners including address and telephone number as the grantor of your license or provisional license.

c. An individual under supervision must refer to him/herself as a provisional licensed professional counselor and include the name and address of his/her board-approved supervisor.

### 3. - 9. ...

10. Client Responsibilities. List client responsibilities, e.g., clients are expected to follow office procedures for keeping appointments, clients must pay for services at the time of each visit, and clients must terminate the counseling relationship before being seen by another mental health professional and/or notify the licensee of any other ongoing professional mental health relationship. If a client is seeing another mental health professional (psychologist, board certified social worker, etc.), then permission must be granted by the first therapist for the second to work with the same client. (See Code of Conduct).

### 11. ...

12. Potential Counseling Risks. Indicate that as a result of mental health counseling, the client may realize that he/she has additional issues which may not have surfaced prior to the onset of the counseling relationship. The licensee may also indicate possible risk within specific specialty

areas (i.e., marriage and family: as one partner changes, additional strain may be placed on the marital relationship if the other partner refuses to work).

13. It is also required that a place be provided for the date and signatures of the licensee, the client(s) and, if warranted, the date and signatures of the parent/guardian and the licensee's supervisor. A general statement is required indicating that the client has read, understands, and agrees to the conditions set forth by the declaration statement. Minor clients must have an accompanying parent/guardian signature which provides consent for their treatment.

B. To practice mental health counseling in Louisiana the licensed professional counselor or provisional licensed professional counselor must have a current copy of his/her declaration statement on file in the LPC Board office. The provisional licensed professional counselor must include a copy of his/her declaration statement with each application for or change in supervision. The Code of Conduct can be duplicated for clients and additional copies are available from the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:627 (August 1989), amended LR 20:544 (May 1994), LR 29:152 (February 2003), LR 39:1806 (July 2013), LR 41:737 (April 2015).

## **Chapter 23. Licensed Professional Counselor, Licensed Marriage and Family Therapist, Provisional Licensed Professional Counselor, Provisional Licensed Marriage and Family Therapist Professional Assistance Program**

### **§2301. Authority**

A. The Louisiana Licensed Professional Counselors Board of Examiners recognizes that impairments in the functioning of persons licensed or provisionally licensed, to practice as licensed professional counselors, provisional licensed professional counselors, licensed marriage and family therapists, or provisional licensed marriage and family therapists can affect the competent delivery of mental health counseling and marriage and family therapy, and impair professional judgment.

B. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1110 and 37:1120.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:344 (January 2011), amended LR 41:737 (April 2015).

### **§2303. Purpose and Scope; Immunity**

A. The goal of the professional assistance program is to provide for public protection through monitoring and a remedial course of action applicable to licensed and provisional licensed professional counselors and to licensed and provisional licensed marriage and family therapists who are functionally impaired in their ability to safely practice. Impairments include, but are not limited to mental, physical, and addictive disorders or other conditions. The program also supports recovery through preventative measures and allows entrance into the program before harm occurs.

B. A licensed or provisional licensed professional counselor or licensed or provisional licensed marriage and family therapist may enter the program subsequent to

voluntary disclosure of impairment via an initial or renewal application for a license or provisional license. When evidence of impairment arises as a possible causative or contributing factor in disciplinary proceedings, the board may offer this program to the subject of those proceedings. If the subject agrees to enter the program, disciplinary proceedings may be suspended pending program completion. If the subject refuses to enter the program, the disciplinary process shall continue. Participation in the program can be voluntary, but may also be required as a prerequisite to continued mental health counseling practice or marriage and family therapy in accordance with the conditions of any consent order, compliance or adjudication hearing. A licensed or provisional licensed professional counselor or licensed or provisional licensed marriage and family therapist who enters the program may be allowed to maintain his/her license or provisional license while in compliance with the requirements of their program, subject to the board's discretion.

C. Professionals who participate in evaluation, monitoring or treatment and who are approved or designated by the board to render these services, as well as professional assistance program committee members and board members, who participate in professional assistance program activities, will be provided immunity. The participating licensed or provisional licensed professional counselor or licensed or provisional licensed marriage and family therapist will be responsible for executing all required releases of information and authorizations required for the board or its designees to obtain information from any monitor, treatment or service provider concerning the licensed or provisional licensed professional counselor or licensed or provisional licensed marriage family therapist's progress and participation in the program, the professional assistance program participant must agree in writing, to grant full immunity to, and hold harmless from any suit or claim, all professional assistance program committee members, board members and those professionals who assist in their evaluation, monitoring, or treatment. This grant of immunity shall extend to all actions by such board members, professional assistance program committee members, or participating professionals acting in good faith in the discharge of their duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1110 and 37: 1120.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:344 (January 2011), amended LR 41:737 (April 2015).

### **§2305. Program Implementation**

A. - A.1.c. ...

2. The participant may be required to submit to ongoing monitoring for a period of up to five years. The beginning date of the monitoring period will be the date upon which a consent order is formally signed by the licensed or provisional licensed professional counselor or licensed or provisional licensed marriage and family therapist and the board, or the date of the board's official decision to require program participation in the event of an adjudication hearing.

3. During the monitoring period the licensed or provisional licensed professional counselor or licensed or provisional licensed marriage and family therapist may be required to submit to random drug and/or alcohol screenings

as determined appropriate by the board, or other monitoring requirements which are pertinent and relative to the documented impairment.

a. - b. ...

4. Receipt by the board of any positive, unexplained substance abuse/drug screen or reports of non-compliance or complications relative to the impairment during the monitoring period may result in suspension, revocation, or other appropriate action pertaining to the licensed or provisional licensed professional counselor, licensed or provisional licensed marriage and family therapist's license or provisional license as determined appropriate by the board.

5. When the impairment is substance-related, the participant may be required to attend Twelve Step meetings on a regular basis as determined appropriate by the designated licensed substance abuse professional, and as approved or required by the board, but no less than four times monthly.

a. A pre-approved monthly log must be submitted to and received by the board at least five days after the final business day of the month following completion of the required meetings. It is the participant's responsibility to ensure that these logs are properly completed and received by the board by the designated date.

b. - c. ...

6. During the monitoring period for the participant, the participant may be required to participate in professional supervision with a board-approved and designated licensed professional counselor supervisor or licensed marriage and family therapist supervisor at a frequency determined by the board for a period of time up to and including the entire five year period of monitoring.

7. The board, in addition to other conditions, may require that the participant obtain regularly scheduled therapy, at a prescribed interval.

a. - b. ...

c. The participant may choose the licensed substance abuse professional or other qualified professional to provide this therapy, subject to board approval.

8. Other requirements for participation in the program may include, but are not limited to, limitations in the scope of the participant's mental health counseling or marriage and family therapy practice, suspension of practice, or voluntary withdrawal from practice for a specific time.

9. In the event that the participant relocates to another jurisdiction, the participant will within five days of relocating be required to either enroll in the other jurisdiction's professional assistance program and have the reports required under the agreement sent to the Louisiana Professional Counselor's Board of Examiners or if the other jurisdiction has no impairment professional program, the participant will notify the licensing board of that jurisdiction that the participant is impaired and enrolled in the professional assistance program. Should the participant fail to adhere to this requirement, in addition to being deemed in violation of the program requirements and corresponding consent order or adjudication, the participant's license or provisional license will be suspended or revoked.

10. The participant shall notify the board office by telephone within 48 hours and in writing within five working days of any changes of the participant's home or work

address, telephone number, employment status, employer and/or change in scope or nature practice. The participant may satisfy the notice requirement by telephone, leaving a voice message on the board's office voicemail at times when the office is closed. A written confirmation from the participant of the phone message is expected within five working days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1110 and 37: 1120.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:345 (January 2011), amended LR 41:738 (April 2015).

### **§2307. Violations**

A. Notification of a violation of the terms or conditions of this agreement, consent order or adjudication order may result in the immediate suspension of the participant's license or provisional license to practice in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1110 and 37: 1120.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:346 (January 2011), amended LR 41:739 (April 2015).

### **§2309. Costs and Fees**

A. The participant shall be responsible for all fees and costs incurred in complying with the terms of this agreement, including but not limited to therapy, assessments, supervision, drug/alcohol screens, and reproduction of treatment or other records. By agreeing to participate in the professional assistance program, the participant agrees to be solely responsible for all such costs or expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1110 and 37: 1120.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:346 (January 2011), amended LR 41:739 (April 2015).

### **§2311. Acceptance of Terms; Program Agreement**

A. The participant must submit to the board a notarized agreement indicating acceptance of the required conditions of participation in the professional assistance program as mandated by the board, along with all initial (or updated) releases or authorizations for the board or its designees to obtain information concerning the participant's participation and progress in the program. Such agreement shall also delineate requirements for release from the program, including but not limited to certification of completion by treatment providers, written evidence of full compliance with the program agreement, and two written reports attesting to the participant's current mental status to be submitted by mental health professionals approved by the board. The program agreement shall also state that the board may monitor the participant for up to two years following program completion. This agreement and the required release and authorizations must be submitted prior to the issuance of any initial license or provisional license or re-issuance of a renewal of a license or provisional license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1110 and 37: 1120.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:346 (January 2011), amended LR 41:739 (April 2015).

### **§2313. Confidentiality**

A. The board will, to the full extent permissible, under R.S. 44:4 et seq., maintain an agreement or consent order relating to the participant's participation in the professional assistance program as a confidential matter. The board retains the discretion to share information it deems necessary with those persons providing evaluation/assessment, therapy, treatment, supervision, monitoring or drug/alcohol testing or reports. Violation of any terms, conditions, or requirements contained in any consent order, or board decision can result in a loss of the participant's license or provisional license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1110 and 37: 1120.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:346 (January 2011), amended LR 41:739 (April 2015).

### **§2315. Recusal**

A. Any board members or professional assistance program committee members who participate in any manner in any particular professional assistance program case shall recuse themselves from voting in any subsequent application or disciplinary matter involving the licensed or provisional licensed professional counselor or licensed or provisional licensed marriage and family therapist who is the subject of such professional assistance program case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1110 and 37: 1120.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:347 (January 2011), amended LR 41:739 (April 2015).

## **Subpart 2. Professional Standards for Licensed Marriage and Family Therapists and Provisional Licensed Marriage and Family Therapists**

### **Chapter 27. General Provisions**

#### **§2703. Statutory Authority of the Marriage and Family Therapy Advisory Committee**

A. The Marriage and Family Therapy Advisory Committee was created and empowered by Act 1195 of the 2001 Legislature to provide for the regulation of the use of the title "licensed marriage and family therapist" (R.S. 37:1101-1122). Therefore, the Louisiana Licensed Professional Counselors Board of Examiners, hereafter referred to as the board, establishes the Marriage and Family Therapy Advisory Committee as directed by the 2001 Legislature. Act 484 of the 2014 Legislative Session empowered the board to provide regulation of the practice and use of the titles "provisional licensed professional counselor" and "provisional licensed marriage and family therapist". The Marriage and Family Therapy Advisory Committee shall develop the rules and regulations herein pursuant to the authority granted to, and imposed upon, said advisory committee under the provisions of the *Louisiana Revised Statutes*, title 37, chapter 13, §1101-1123. The Health and Welfare Committees in the House and Senate shall jointly approve these rules and regulations. The board shall promulgate these rules and regulations [R.S. 37: 1104(B)(2)(b)]. The board shall approve, revoke, suspend, and renew the license of applicants for licensure as licensed marriage and family therapists and the provisional license of applications for provisional licensure as provisional licensed marriage and family therapists upon recommendation of the

Marriage and Family Therapy Advisory Committee [R.S. 37:1105(G)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:153 (February 2003), amended LR 41:739 (April 2015).

#### **§2705. Description of Organization**

A. The Marriage and Family Therapy Advisory Committee, hereafter referred to as the advisory committee, consists of four members, who shall be residents of the state of Louisiana. All candidates and advisory committee members shall be licensed marriage and family therapists. The four advisory committee members shall be members of the board.

B. - C. ...

D. Any vacancy occurring in advisory committee membership, other than by expiration of term, shall be filled for the remainder of the unexpired term by the governor within 30 days from a list of qualified candidates supplied by the LMFT board as prescribed in Section 1104 of R.S. 37:1101-1123.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:153 (February 2003), amended LR 29:2783 (December 2003), LR 41:740 (April 2015).

#### **§2709. Notification of Change**

A. Licensed marriage and family therapists, provisional licensed marriage and family therapists, and LMFT-approved supervisors/supervisors-in-training shall notify the Licensed Professional Counselors Board of Examiners in writing of any and all changes in name, address, and phone number within 30 days. Failure to do so will result in a fine as set forth in §901.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:153 (February 2003), amended LR 41:740 (April 2015).

### **Chapter 29. Advisory Committee Meetings, Procedures, Records, Powers and Duties**

#### **§2905. Quorum**

A. Three members of the advisory committee shall constitute a quorum at any meeting or hearing for the transaction of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:154 (February 2003), amended LR 41:740 (April 2015).

#### **§2907. Procedures**

A. ...

B. The advisory committee shall review applications for examination, licensure, provisional licensure, and renewal for recommended approval to the board. The advisory committee shall recommend to the board to withhold, deny,

revoke, or suspend any license or provisional license of an applicant, or impose any other sanctions on licensed or provisional licensed marriage and family therapists.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:154 (February 2003), amended LR 41:740 (April 2015).

#### **§2911. Records**

A. The advisory committee shall maintain records of pertinent matters relating to application, licensure, and discipline. Registers of LMFT-approved supervisors and LMFT-registered supervisor candidates and a register of licensed and provisional licensed marriage and family therapists shall be made available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:154 (February 2003), amended LR 29:2784 (December 2003), LR 41:740 (April 2015).

### **Chapter 31. License of Title for Marriage and Family Therapy**

#### **§3101. License of Title for Marriage and Family Therapy**

A. ...

B. As stated in R.S. 37:1122(A), no person, unless he/she holds a provisional license as a provisional licensed marriage and family therapist, shall advertise as being a "provisional licensed marriage and family therapist" or hold themselves out to the public or make use of any title, words, letters or abbreviations that may reasonably be confused with the title "provisional licensed marriage and family therapist."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:154 (February 2003), amended LR 41:740 (April 2015).

#### **§3103. Practice of Marriage and Family Therapy by Other Licensed Mental Health Professionals**

A. Nothing in this subpart shall be construed as prohibiting qualified members of other professional groups including but not limited to clinical social workers, psychiatric nurses, psychologists, physicians, licensed professional counselors, or members of the clergy, including Christian science practitioners, from doing or advertising that they perform work of a marriage and family therapy nature consistent with the accepted standards of their respective professions. No such person, however, shall use the title, or use any words or abbreviations that may reasonably be confused with the title, "licensed marriage and family therapist" or "provisional licensed marriage and family therapist".

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:154 (February 2003), amended LR 41:740 (April 2015).

### **§3105. Definitions for Licensed Marriage and Family Therapists and Provisional Licensed Marriage and Family Therapists**

*Active Supervision*—the process by which a supervisee receives one hour of face-to-face supervision with his/her board-approved supervisor for every 20 hours of direct client contact or at least once every three-month period.

\* \* \*

*Licensee*—an individual holding either a full or provisional license issued by the Louisiana Licensed Professional Counselors Board of Examiners. All licensees must accurately identify themselves as fully licensed (i.e., licensed) or provisionally licensed.

\* \* \*

*Provisional Licensed Marriage and Family Therapist*—any person by title or description of services incorporating the words "provisional licensed marriage and family therapist" and who, under board-approved supervision (i.e. may not practice independently), renders marriage and family therapy denoting a client-therapist relationship in which the licensee assumes the responsibility for knowledge, skill, and ethical consideration needed to assist individuals, groups, organizations, or the general public, and who implies that he/she is provisionally licensed to practice marriage and family therapy.

\* \* \*

*Supervisee*—a provisional licensed marriage and family therapist under the active supervision of his/her board-approved supervisor or board-approved supervisor candidate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:154 (February 2003), amended LR 29:2784 (December 2003), LR 41:741 (April 2015).

## **Chapter 33. Requirements for Licensure and Provisional Licensure**

### **§3301. General Provisions**

A. The board upon recommendation of the marriage and family therapy advisory committee shall license or provisionally license to practice all persons who present satisfactory evidence of qualifications as specified in these rules and regulations of the advisory committee. Such licensure shall be signed by the chairman and vice chairman of the board and the chairman and vice chairman of the advisory committee. No license or provisional license shall be denied any applicant based upon the applicant's race, religion, creed, national origin, sex, or physical impairment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003), amended LR 41:741 (April 2015).

### **§3303. Definitions**

*Applicant*—any individual seeking licensure or provisional licensure who has submitted an official application and paid the application fee.

\* \* \*

*Direct Client Contact*—face-to-face (therapist and client) therapy with individuals, couples, families, and/or groups from a relational perspective. Activities such as telephone

contact, case planning, observation of therapy, record keeping, travel, administrative activities, consultation with community members or professionals, or supervision, are not considered direct client contact. Assessments done face-to-face and more than clerical in nature and focus may be counted as direct client contact. Psychoeducation may be counted as *direct client contact*.

*Supervision*—the professional relationship between a supervisor and supervisee that promotes the development of responsibility, skill, knowledge, and ethical standards in the practice of marriage and family therapy. In addition to monitoring the student's supervised face-to-face therapy with individuals, couples, families, and/or groups from a systemic/relational perspective, the supervisor provides regular, face-to-face guidance and instruction. *Supervision* may include, without being limited to, the review of case presentations, audiotapes, videotapes, and direct observation. *Supervision* will be distinguishable from psychotherapy and teaching.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003), amended LR 29:2784 (December 2003), LR 35:1113 (June 2009), LR 37:1601 (June 2011), repromulgated LR 37:2162 (July 2011), LR 41:741 (April 2015).

### **§3305. General Licensing Requirements**

A. Each person desiring to obtain a license or provisional license as a practicing marriage and family therapist shall make application to the board upon such forms and completed in such manner as the board prescribes, accompanied by such fee prescribed. An applicant shall furnish evidence satisfactory to the board and the advisory committee that such person:

1. ...
2. is not engaged or has not engaged in any practice or conduct that would be grounds for refusing to issue a license or provisional license;
3. is qualified for licensure or provisional licensure pursuant to the requirements provided for in this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003), amended LR 37:1601 (June 2011), repromulgated LR 37:2163 (July 2011), LR 41:741 (April 2015).

### **§3309. Academic Requirements for MFT Licensure or Provisional Licensure**

A. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:156 (February 2003), amended LR 29:2785 (December 2003), LR 35:1113 (June 2009), LR 37:1602 (June 2011), repromulgated LR 37:2163 (July 2011), amended LR 38:1965 (August 2012), LR 41:741 (April 2015).

### **§3311. Coursework and Academic Supervision Requirements, for Options 2, 3, and 4**

A. - A.8. ...

9. Up to 220 of the required 500 hours of supervised direct client contact and 44 of the required 100 hours of

face-to-face supervision not completed during a practicum and/or internship during the completion of the qualifying degree program or postgraduate training institute may be completed once an applicant is provisionally licensed as a provisional licensed marriage and family therapist and is under the supervision of an LMFT board-approved supervisor. These hours shall be added to the required 2000 hours of supervised direct client contact required for licensure.

B. - B.2. ...

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:1602 (June 2011), repromulgated LR 37:2163 (July 2011), amended LR 38:1966 (August 2012), LR 41:742 (April 2015).

### **§3315. Application, Practice, and Renewal Requirements for Provisional Licensed Marriage and Family Therapists**

#### **A. General Provisions**

1. Pursuant to Act 484 of the 2014 Regular Legislative Session and effective May 1, 2015, an individual previously registered as a MFT intern with the Louisiana Licensed Professional Counselors Board of Examiners and under active board-approved supervision will be issued a provisional license as a provisional licensed marriage and family therapists and subject to R.S. 37:1101-1123 and board rules herein.

2. Any MFT intern who has surpassed their seven-year registration period, with the exception of those granted an extension by the board, must reapply to the board as a provisional licensed marriage and family therapist under current law and board rules in order to practice marriage and family therapy.

3. MFT interns granted an extension beyond May 1st, 2015 will be issued a provisional license. Such provisional license will become invalid upon expiration of the board granted extension. The individual must then apply under current law and board rules for provisional licensure as a provisional licensed marriage and family therapist or for licensure as a licensed marriage and family therapist in order to practice marriage and family therapy.

4. Persons who apply to the board for qualification as a provisional licensed marriage and family therapist must meet the specified degree requirements and must successfully complete a minimum of two years of post-graduate clinical experience in marriage and family therapy as specified in Section 3315.C.1 under qualified supervision as determined by the advisory committee and approved by the board. Upon qualification, the provisional licensed marriage and family therapist shall be considered an applicant in process for licensure as an LMFT.

5. A member of the advisory committee who has functioned as a board-approved supervisor for a person making application for licensure as an LMFT or certification as a board-approved supervisor shall not participate in deliberations in regard to or vote on the approval of said applicant.

6. A provisional licensed marriage and family therapist must provide updates to the board and board-approved supervisor regarding changes in status on forms provided by the board within 30 days of said change. Failure

to comply may result in a fine, loss of supervised experience hours, and/or disciplinary action. Changes in status include changes in:

a. relevant personal information, including contact information, physical address, name;

b. relevant practice setting information, including job title/duties, employment status;

c. status with the justice system, including notification of arrest, charges, convictions;

d. status with another licensure/credentialing body, including notification of suspension, revocation, or other disciplinary proceedings/actions;

e. the use of any narcotics, controlled substances, or any alcoholic beverages in a manner that is dangerous to the public or in a manner that impairs the supervisee's ability to provide mental health services to the public;

f. any medical condition which may in any way impair or limit the supervisee's ability to provide mental health services to the public with reasonable skill or safety.

7. The supervisee must maintain documentation of all supervised experience hours by employment location and type of hour (indirect, direct, and face to face supervision). It is recommended that a supervisee obtain the signature of the board-approved supervisor indicating review and approval of documentation at regular intervals.

#### **B. Definitions for Supervision**

*Consultation*—a voluntary relationship between professionals of relatively equal expertise or status wherein the person being consulted offers advice or information on an individual case or problem for use by the person asking for assistance. The consultant has no functional authority or legal or professional responsibility for the consultee, the services performed by the consultee, or the welfare of the consultee's client. *Consultation* is not supervision. Experience under contract for *consultation* will not be credited toward fulfillment of supervision requirements of provisional licensed marriage and family therapists or supervisor candidates.

*Co-Therapy Supervision*—qualified supervision that takes place during a therapy session in which the LMFT board-approved supervisor acts as a co-therapist with the provisional licensed marriage and family therapist.

*Direct Work Experience*—psychotherapeutic services delivered face-to-face to individuals, couples, families, or groups in a setting and in a manner approved by the advisory committee as part of the supervisee's plan of supervision.

*Group Supervision*—qualified supervision of more than two and no more than six provisional licensed marriage and family therapists with one or more board-approved supervisors. *Group supervision* provides the opportunity for the supervisee to interact with other supervisees and offers a different learning experience than that obtained from individual supervision.

\* \* \*

*Live Supervision*—individual and/or group supervision in which the supervisor directly observes the case while the therapy is being conducted and has the opportunity to provide supervisory input during the session. When a supervisor conducts *live supervision* the time is counted as individual supervision for up to two provisional licensed marriage and family therapists providing therapy in the room with the client(s) and for up to two provisional licensed

marriage and family therapists observing the therapy and interacting with the supervisor. The time is counted as group supervision when more than two provisional licensed marriage and family therapists involved in direct client contact or more than two observers interacting with the supervisor are present, providing that there are no more than six provisional licensed marriage and family therapists involved.

*LMFT Board-Approved Supervisor*—an individual who has made formal application for certification as an *LMFT board-approved supervisor* documenting that he or she has satisfactorily met the standards specified in the Rule for *LMFT board-approved supervisors* as determined by the advisory committee and has received a letter from the board certifying them as such. Under no circumstances may an *LMFT board-approved supervisor* be related to by birth or marriage, live in the same household with, be an employee of, or maintain any other relationship with the provisional licensed marriage and family therapist that may be considered a dual relationship which may impede the *LMFT board-approved supervisor* from effectively providing for the professional development of the supervisee and monitoring the ethical and professional quality of the supervisee's service delivery to clients. During the course of the supervisory process, The *LMFT board-approved supervisor* maintains an appropriate level of responsibility for the supervisee's delivery of services and provides an accurate and true representation to the public of those services and the supervisor/supervisee relationship. A *LMFT board-approved supervisor* may use the initials LMFT-S for licensed marriage and family therapy supervisor after his or her name. Henceforth, the *LMFT board-approved supervisor* will be called the approved supervisor or the supervisor.

\* \* \*

*Provisional Licensed Marriage and Family Therapist*—an individual who has made formal application for provisional licensure as a *provisional licensed marriage and family therapist* documenting that he or she has satisfactorily met the standards specified in the Rule for a *provisional licensed marriage and family therapist* as determined by the advisory committee and who has received a letter from the board indicating their provisional licensure as such. A *provisional licensed marriage and family therapist* may use the initials PLMFT after his or her name. Provisional licensed marriage and family therapists shall not identify or represent themselves by any other term or title, including "licensed", "fully licensed", "licensed marriage and family therapist", "LMFT", or "therapist". It is the responsibility of the *provisional licensed marriage and family therapist* to comply with this Rule and board policy in the provision of services to their clients during their postgraduate supervised clinical experience. It is also the *provisional licensed marriage and family therapist's* responsibility to offer reasonable compliance to the plan of supervision and to the directives and suggestions of their supervisor as they are consistent with law, ethics, statutes, and board policy. It is the primary responsibility of the *provisional licensed marriage and family therapist* to ensure that he or she has a thorough, current knowledge of his or her legal, ethical, and professional responsibilities and that his or her behavior is in compliance with ethical and legal requirements. Henceforth, the *provisional licensed marriage*

*and family therapist* will be called the PLMFT or in some instances the supervisee or licensee.

*Qualified Supervision*—supervision of the clinical services of a provisional licensed marriage and family therapist by a board-approved supervisor or supervisor candidate for the purpose of qualifying the provisional licensed marriage and family therapist for licensure as an LMFT in Louisiana in accordance with the plan of supervision approved by the advisory committee. Under no circumstances shall any contact that is not face-to-face (such as interaction by conventional correspondence, telephone, e-mail, instant message, video conference, etc.) between an LMFT board-approved supervisor or supervisor candidate and a provisional licensed marriage and family therapist be considered *qualified supervision* unless such contact is pre-approved by the advisory committee as part of the supervisee's plan of supervision.

a. ...

b. Any didactic process wherein techniques or procedures are taught in a group setting, classroom, workshop, or seminar shall not normally be considered qualified supervision. If, however, the board-approved supervisor deems such experience as necessary to the supervisee's successful completion of his or her postgraduate clinical supervised experience, such experience may be included in the supervisee's plan of supervision. Approval of such experience as *qualified supervision* will be at the discretion of the advisory committee.

c. ...

*Supervisee*—a provisional licensed marriage and family therapist under the active supervision of his/her board-approved supervisor or board-approved supervisor candidate.

*Supervision*—the professional relationship between a supervisor and supervisee that nurtures the professional self of the supervisee, promotes the development of the supervisee's therapeutic knowledge and skill, contributes to the supervisee's development of sound ethical judgment, and reasonably ensures that the therapeutic services delivered by the supervisee meet a minimum standard of clinical and ethical quality. The supervisor provides guidance and instruction that is of such quality, frequency, and regularity that the clinical and professional development of the supervisee is promoted and the supervisee's service delivery is adequately monitored. *Supervision* involves the clinical review of the supervisee's work with clients that may utilize therapist self-report and review of clinical documentation, review of audiotapes or videotapes, or direct observation of live therapy sessions.

*The Plan of Supervision for PLMFTs*—a written agreement between the board-approved supervisor and the PLMFT that establishes the supervisory framework for the postgraduate clinical experience of the supervisee and describes the expectations and responsibilities of the board-approved supervisor and the PLMFT as a supervisee. It is the responsibility of the PLMFT to submit the plan of supervision to the advisory committee in a manner consistent with advisory committee policy.

\* \* \*

#### C. PLMFT Supervision Requirements for Licensure

1. A PLMFT must complete qualified postgraduate clinical experience under the supervision of a board-

approved supervisor or registered supervisor candidate that consists of work experience in marriage and family therapy and that includes at least 3,000 hours of clinical services to individuals, couples, families, or groups. An out-of-state applicant may transfer up to 2500 hours of supervised experience towards licensure (a maximum of 1600 direct client contact hours, a maximum of 815 indirect hours, and a maximum of 85 hours of face-to-face supervision). The aforementioned hours must have been accrued under the clinical supervision of an approved supervisor within their state who meets the qualifications of a supervisor of PLMFTs set forth by the advisory committee. The decision to approve transfer of hours and supervisors from out of state shall be made at the discretion of the advisory committee.

a. - b. ...

c. The provisional licensee must apply and be approved for licensure within six years from date of approval as a provisional licensed marriage and family therapists. After six years, the licensee will forfeit all supervised experience hours accrued and must reapply for provisional licensure under current requirements and submit recent continuing education hours (CEHs) as part of reapplication.

d. Applicants for provisional licensure as PLMFTs shall not provide psychotherapeutic services to clients unless they have received an official letter from the board qualifying them to do so or unless some other qualifying mental health license allows them to deliver such services. To continue employment in a clinical setting post-graduation, applicants who have graduated with qualifying degrees have 60 days from their date of graduation to apply for provisional licensure.

2. The postgraduate clinical experience must include at least 200 hours of qualified supervision, of which at least 100 hours must be individual supervision. The remaining 100 hours may be group supervision.

a. Up to 100 hours of face-to-face supervisor contact received during the completion of the applicant's qualifying academic experience graduate program that is systemically oriented as determined by the advisory committee may be counted toward the required 200 hours of qualified supervision. Of these 100 hours, only 50 hours may be counted as individual supervision.

3. The supervisee's plan of supervision must reflect that the supervisee is receiving supervision in the application of systemically based approaches to therapy with all clients.

4. The supervisee may begin accruing client- and supervisor-contact hours only after the supervisee has received an official letter of approval as a provisional licensed marriage and family therapist from the board.

5. The supervisee will be granted a change of approved supervisors or an additional approved supervisor only upon payment of the fee as defined in Chapter 9 and upon the approval of appropriate documentation as determined by the advisory committee.

a. In the event of a change or addition of supervisor(s), the supervisee must submit appropriate documentation for each proposed supervisor. Supervision with the new supervisor is not approved until the supervisee receives a letter from the board approving the new supervisor and plan of supervision.

b. A change of supervisors or additional supervisor(s) will not be approved until all of the supervisee's existing supervisor(s) have submitted a documentation of experience form for the supervisee in accordance with advisory committee policy.

6. Final approval of the supervisee's supervised work experience toward licensure shall be at the discretion of the advisory committee and only upon recommendation of the board-approved supervisor(s).

7. - 7.e. ...

D. Renewal Requirements for Provisional Licensed Marriage and Family Therapists

1. A provisional licensed marriage and family therapist shall renew his/her provisional license every two years in the month of October by meeting the following requirements each renewal period:

a. 20 clock hours of continuing education in accordance with 3315.E;

b. submit a renewal fee as prescribed in Chapter 9;

c. submit supervised experience hours accrued (direct, indirect, face-to-face supervision) since approval/renewal as a provisional licensed marriage and family therapist;

d. take the national marriage and family therapist examination as determined by the advisory committee and request the submission of a score report to the board by the testing agency until a passing score is achieved. If a passing score is not achieved, the national marriage and family therapist examination must be taken at least once per renewal period. At the discretion of the advisory committee, an oral examination may be required as well;

e. submit an updated statement of practice if there has been a change in the area of expertise, with the content being subject to board review and approval. The advisory committee, at its discretion, may require the licensee to present satisfactory evidence supporting any changes in area of expertise noted in the declaration statement. All other changes as defined in Chapter 33, Section 3315.A.6 should be submitted to the board within 30 days of said change.

2. The board chair, upon recommendation of the advisory committee, shall issue a document renewing the provisional license for a term of two years. The provisional license of any licensee who fails to have his/her provisional license renewed every two years during the month of October shall lapse. An individual with a lapsed license may not practice mental health counseling, identify his/herself as a provisional licensed marriage and family therapist or accrue any supervised experience hours. A lapsed provisional license may be renewed within a period of 90 days or postmarked by January 31 upon payment of all fees and arrears and presentation of all required documentation. After 90 days, the licensee will forfeit all supervised experience hours accrued during that renewal period and must reapply for provisional licensure under current requirements and submit recent continuing education hours (CEHs) as part of reapplication.

3. The provisional licensee must apply and be approved for licensure within six years from date of approval as a provisional licensed marriage and family therapist. After six years, the licensee will forfeit all supervised experience hours accrued and must reapply for provisional licensure under current requirements and submit



recent continuing education hours (CEHs) as part of reapplication.

#### E. Continuing Education Requirements for Provisional Licensed Marriage and Family Therapists

1. A provisional licensee must accrue 20 clock hours of continuing education by every renewal period every two years. Of the 20 clock hours of continuing education, one and a half clock hours must be accrued in ethics specific to marriage and family therapy and one and a half clock hours must be accrued in diagnosis (assessment, diagnosis, and treatment under the *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-5) as published by the American Psychiatric Association on May 18, 2013). The required training in diagnosis, assessment, and treatment under the DSM-5 may be specific to a particular condition and/or may be general training in diagnosis, assessment, and treatment. A generic ethics course is not acceptable.

a. One continuing education hour (CEH) is equivalent to one clock hour.

b. Accrual of continuing education begins only after the date the license was issued.

c. CEHs accrued beyond the required 20 hours may not be applied toward the next renewal period. A provisional licensee renewal period runs November 1 to October 31, every two years.

d. The licensee is responsible for keeping a personal record of his/her CEHs until official notification of renewal is received. Licensees should not forward documentation of CEHs to the board office as they are accrued.

e. At the time of renewal, 10 percent of the licensees will be audited to ensure that the continuing education requirement is being met. Audited licensees will be notified to submit documentation of CEHs.

f. Those provisional licensed marriage and family therapists who hold another license that requires CEHs may count the CEHs obtained for that license toward their PLMFT continuing education hour requirements. Of the 20 CEHs submitted, however, 10 hours must be in the area of marriage and family therapy with an emphasis upon systemic approaches or the theory, research, or practice of systemic psychotherapeutic work with couples or families including one and a half clock hours of ethics specific to marriage and family therapy and one and a half clock hours specific to diagnosis.

#### 2. Approved Continuing Education for Provisional Licensed Marriage and Family Therapists

a. Continuing education requirements are meant to encourage personal and professional development throughout the licensee's career. For this reason, a wide range of options are offered to accommodate the diversity of licensees' training, experience, and geographic locations.

b. A licensee may obtain the 20 CEHs through one or more of the options listed below. A maximum of 10 CEHs may be obtained through an online format, with the exception of coursework obtained through a regionally accredited institution of higher education.

i. The advisory committee will accept workshops and presentations approved by the American Association for Marriage and Family Therapy (AAMFT) and its regional or state divisions including the Louisiana Association for Marriage and Family Therapy (LAMFT). Contact them directly to find out which organizations, groups, or

individuals are approved providers graduate coursework either taken for credit or audit must be from a regionally accredited college or university and in the areas of marriage and family therapy described in §3315.E.4.

ii. Licensees may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner (either for credit or audit). Credit cannot be given to persons who leave early from an approved session or to persons who do not successfully complete graduate coursework.

iii. Continuing education taken from organizations, groups, or individuals not holding provider status by one of the associations listed in Clause i will be subject to approval by the advisory committee at the time of renewal.

(a). The advisory committee will not pre-approve any type of continuing education.

(b). The continuing education must be in one of the seven approved content areas listed in §3315.E.4 and given by a qualified presenter.

(c). A qualified presenter is someone deemed by the advisory committee to be a professional in marriage and family therapy, another mental health profession, or another profession with information, knowledge, and skills relevant to the practice of marriage and family therapy.

(d). One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner.

(e). Credit cannot be granted for business/governance meetings; breaks; and social activities including meal functions, except for the actual time of an educational content speaker.

(f). Credit may not be given for marketing the business aspects of one's practice, time management, supervisory sessions, staff orientation, agency activities that address procedural issues, personal therapy, or other methods not structured on sound educational principles or for content contrary to the LMFT Code of Ethics (Chapter 43).

#### c. Optional Ways to Obtain Continuing Education (10 Hours Maximum)

i. Licensees may receive one clock hour of continuing education for each hour of direct work in:

(a). teaching a marriage and family therapy course (10 hours maximum) in an area as described in §3315.E.4. in an institution accredited by a regional accrediting association. Continuing education hours may be earned only for the first time the individual teaches the course; or

(b). authoring, editing, or reviewing professional manuscripts or presentations (10 hours maximum) in an area of marriage and family therapy as described in §3315.E.4. Articles must be published in a professional refereed journal.

ii. Presentations at workshops, seminars, symposia, and meetings in an area of marriage and family therapy as described in §3315.E.4 may count for up to 10 hours maximum at a rate of two clock hours per one-hour presentation. Presenters must meet the qualifications stated in §3315.E.2.b.iii.(c). The presentation must be to the professional community, not to the lay public or a classroom presentation.

3. Continuing education hours must be relevant to the practice of marriage and family therapy and generally evolve from the following seven areas.

a. Theoretical Knowledge of Marriage and Family Therapy. Continuing education in this area shall contain such content as the historical development, theoretical and empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy and will be related conceptually to clinical concerns.

b. Clinical Knowledge of Marriage and Family Therapy. Continuing education in this area shall contain such content as:

i. couple and family therapy practice and be related conceptually to theory;

ii. contemporary issues, which include but are not limited to gender, violence, addictions, and abuse, in the treatment of individuals, couples, and families from a relational/systemic perspective;

iii. a wide variety of presenting clinical problems;

iv. issues of gender and sexual functioning, sexual orientation, and sex therapy as they relate to couple, marriage and family therapy theory and practice;

v. diversity and discrimination as it relates to couple and family therapy theory and practice.

c. Assessment and Treatment in Marriage and Family Therapy. Continuing education in this area shall contain such content from a relational/systemic perspective as psychopharmacology, physical health and illness, traditional psychodiagnostic categories, and the assessment and treatment of major mental health issues.

d. Individual, Couple, and Family Development. Continuing education in this area shall contain such content as individual, couple, and family development across the lifespan.

e. Professional Identity and Ethics in Marriage and Family Therapy. Continuing education in this area shall contain such content as:

i. professional identity, including professional socialization, scope of practice, professional organizations, licensure and certification;

ii. ethical issues related to the profession of marriage and family therapy and the practice of individual, couple and family therapy. Generic education in ethics does not meet this standard;

iii. the AAMFT Code of Ethics, confidentiality issues, the legal responsibilities and liabilities of clinical practice and research, family law, record keeping, reimbursement, and the business aspects of practice;

iv. the interface between therapist responsibility and the professional, social, and political context of treatment.

f. Research in Marriage and Family Therapy. Continuing education in this area shall include significant material on research in couple and family therapy; focus on content such as research methodology, data analysis and the evaluation of research, and include quantitative and qualitative research.

g. Supervision in Marriage and Family Therapy. Continuing education in this area include studies in theory and techniques of supervision as well as ethical and legal issues, case management, and topics relative to the specific supervised training.

F. Types of documentation needed for continuing education audit:

1. copy of certificate of attendance for workshops, seminars, or conventions;

2. copy of transcript for coursework taken for credit/audit;

3. letter from workshop/convention coordinator verifying presentation;

4. copy of article plus the table of contents of the journal it appears in, copy of chapter plus table of contents for chapter authored for books, title page and table of contents for authoring or editing books, letter from conference coordinator or journal editor for reviewing refereed workshop presentations or journal articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003), amended LR 29:2787 (December 2003), LR 35:1114 (June 2009), LR 38:1966 (August 2012), LR 39:1806 (July 2013), LR 41:742 (April 2015).

**§3317. Qualifications of the LMFT-Approved Supervisor, LMFT-Registered Supervisor Candidate, Board-Approved Supervisor, and Registered Supervisor Candidate**

A. Qualifications of an LMFT-Approved Supervisor and a LMFT-Registered Supervisor Candidate

1. Supervision not provided by an LMFT-approved supervisor or an LMFT-registered supervisor candidate as determined by the advisory committee will not be counted toward licensure.

2. A supervisor may not have more than a combined total of 10 supervisees, including PLMFTs and licensees in other disciplines and/or registered supervisor candidates at the same time.

3. A person who wishes to become an LMFT-approved supervisor must be a licensed marriage and family therapist and must submit a completed application that documents that he or she meets the requirements in one of two ways.

a. The applicant may meet the requirements by meeting the following coursework, experience, and supervision of supervision requirements.

i. Coursework requirements:

(a). a one-semester graduate course in marriage and family therapy supervision from a regionally accredited institution; or

(b). an equivalent course of study consisting of a 15-hour didactic component and a 15-hour interactive component in the study of marriage and family therapy supervision approved by the advisory committee. The interactive component must include a minimum of four persons.

ii. Experience requirements:

(a). has a minimum of two years experience as a licensed marriage and family therapist.

iii. Supervision of Supervision requirements:

(a). Thirty-six hours of supervision of supervision for marriage and family therapy must be taken from an LMFT-approved supervisor.

b. Designation as an AAMFT approved supervisor qualifies a person to become an LMFT approved supervisor.

Documentation must be submitted and recommended by the advisory committee for board approval.

4. LMFT-registered Supervisor Candidate

a. A person who wishes to become an LMFT-registered supervisor candidate must submit an application provided by the board upon recommendation of the advisory committee that:

i. includes documentation of a minimum of two years of experience as a licensed marriage and family therapist;

ii. either documents that he or she has met the coursework and interactional requirement specified in Clause D.3.a.i. or proposes how this requirement shall be met;

iii. includes the name of the LMFT-approved supervisor who will be supervising his or her supervision of PLMFTs and the approximate dates such supervision will begin and end.

b. The advisory committee will review the application and inform the individual in writing that the proposed supervision of supervision arrangement either has been approved or rejected. Any rejection letter will outline the reasons for rejection.

c. An advisory committee member cannot participate in deliberations or votes on any applicant who has been supervised by that advisory committee member.

d. Upon completion of the required hours of supervision of supervision, the registered supervisor candidate must submit an application to become an LMFT approved supervisor.

B. Qualification of the Board-Approved Supervisor and Registered Supervisor Candidate

1. The board, upon recommendation of the advisory committee, shall grant those persons that make formal application and satisfactorily meet all the requirements of this Rule the position of board-approved supervisor or registered supervisor candidate.

2. The applicant for certification as a board-approved supervisor or registration as a supervisor candidate shall have maintained an active license in good standing as a LMFT for a minimum of two years.

3. The applicant who has an unresolved or outstanding complaint or who is under a consent order or participating in a plan of discipline as a mental health professional must indicate this on his or her formal application and shall be granted board-approved supervisor or supervisor candidate's status only at the discretion of the advisory committee.

C. Requirements for Certification as a Board-Approved Supervisor

1. Applicants for certification as a LMFT board-approved supervisor must make formal application to the board in accordance with advisory committee policy demonstrating that he or she has satisfactorily met the following requirements.

a. Experience Requirements. While maintaining a license in good standing as a LMFT, the applicant must have completed a minimum of two years of professional experience as a marriage and family therapist working with individuals, couples, families or groups from a systemic perspective or working as an academic clinical supervisor utilizing a systemic orientation as determined by the advisory committee.

b. Coursework Requirements. The applicant must have completed:

i. a one-semester graduate course in marriage and family therapy supervision from a regionally accredited institution; or

ii. an equivalent course of study consisting of a 15-hour didactic component and a 15-hour interactive component in the study of marriage and family therapy supervision approved by the advisory committee. The interactive component must include a minimum of four persons.

c. Supervision-of-Supervision Requirements. The applicant must have completed 36 hours of supervision-of-supervision of marriage and family therapy with the oversight of a designated board-approved supervisor as determined by the advisory committee. Registered supervisor candidates may not qualify to provide supervision-of-supervision to other registered supervisor candidates.

d. The applicant for the position of LMFT board-approved supervisor who is not registered as a supervisor candidate may not begin qualified supervision of PLMFTs until receipt of an official approval letter from the board as a LMFT board-approved supervisor.

2. Applicants for certification as a board-approved supervisor must submit with their application for certification a nonrefundable application fee of \$100.

3. Designation as an AAMFT board-approved supervisor may qualify a person to become an LMFT board-approved supervisor. AAMFT supervisors must make application to the board in accordance with advisory committee policy in order to certify as board-approved supervisors. AAMFT supervisors who have not certified to be LMFT board-approved supervisors shall not supervise PLMFTs. Supervision provided by an AAMFT supervisor who has not received certification from the board qualifying them as a LMFT board-approved supervisor shall not count toward licensure.

4. The board-approved supervisor shall attend a LMFT board-approved supervisor's orientation approved by the advisory committee within one year of the board-approved supervisor's date of certification. This orientation may also be counted as continuing education toward the board-approved supervisor's licensure renewal as a marriage and family therapist.

a. Board-approved supervisors who fail to meet this requirement within one year of their initial certification as board-approved supervisors will not be approved for new supervisees until the requirement is met. Failure to meet this requirement within two years of the date of approval may result in the suspension of approved supervisor status.

b. This requirement may be met during the supervisor candidate's supervision-of-supervision. If the candidate elects to do so, the orientation hours may count toward the continuing education requirements for renewal of his or her LMFT license.

D. Requirements for Registration as a Registered Supervisor Candidate

1. The applicant for registration as a LMFT registered supervisor candidate must submit to the board a formal application and a plan of supervision-of-supervision in accordance with advisory committee policy.

a. The registered supervisor candidate's supervision-of-supervision must include:

i. a minimum of two MFT students or PLMFTs supervised for a minimum of nine months each;

ii. at least 90 hours of supervision of approved supervisees. These 90 hours of supervision must be completed in no less than one year and no more three years with the oversight of his or her designated board-approved supervisor.

b. The applicant for registration as a LMFT registered supervisor candidate shall not supervise PLMFTs or begin accruing supervisor or supervisee contact hours toward his or her certification as a board-approved supervisor until he or she has received an official letter from the board approving his or her registration as a supervisor candidate.

2. The registered supervisor candidate who has successfully completed his or her plan of supervision-of-supervision must make formal application in accordance with advisory committee policy to be considered for certification as a board-approved supervisor.

3. Final approval of the approved supervisor candidate's supervised work experience toward certification as an approved supervisor shall be at the discretion of the advisory committee and only upon recommendation of the candidate's board-approved supervisor(s).

E. Renewal of Certification as a Board-Approved Supervisor

1. The board-approved supervisor shall renew his or her board certification to supervise PLMFTs every four years. Supervisors will receive a renewal announcement from the board providing them with their required renewal date and will receive a renewal notice every four years thereafter.

2. To qualify for renewal, board-approved supervisors must:

a. maintain an active LMFT license in good standing as defined by this Rule. Applicants for renewal of their board-approved supervisory status that are under a consent order as a licensee may be renewed only at the discretion of the advisory committee.

b. complete six clock hours of continuing education in clinical MFT supervision prior to each renewal date for current renewal period. These continuing education hours may also count toward the board-approved supervisor's renewal requirements for licensure as a LMFT;

i. continuing education for board-approved supervisors must be specifically relevant to the renewal candidate's role as clinical supervisor of PLMFTs as determined by the advisory committee. The content of workshops and seminars that qualify for continuing education credit for renewal candidates may be in theories and techniques of MFT supervision as well as ethical and legal issues related to MFT supervision, case management, or topics relative to a specific supervised setting;

ii. requirements otherwise applicable to continuing education hours for board-approved supervisors are the same as continuing education hours required for maintenance of the supervisor's LMFT license as defined in these rules;

c. successfully complete the board-approved orientation workshop for supervisors. The orientation shall

not count toward the required six hours of required continuing education for board-approved supervisors;

d. submit a completed board-approved supervisor renewal application along with any updates to the supervisor's statement of practice in accordance with advisory committee policy;

e. remit a renewal fee of \$100.

3. After the renewal candidate has successfully completed the above requirements, the board upon recommendation of the advisory committee shall issue a document renewing the supervisor's board certification for a term of four years.

a. The board approval of any board-approved supervisor who fails to meet renewal requirements shall lapse; however, the failure to renew said approval shall not deprive said supervisor the right of renewal thereafter.

b. Board-approved supervisors who do not renew their board-approved supervisor's status will not be approved for new PLMFTs until the board-approved supervisor has renewed his or her supervisory approval or has successfully reapplied for board-approved supervisor status.

c. A board-approved supervisor who has allowed his or her board-approved supervisor status to lapse may renew within a period of two years after the lapsed renewal date upon payment of all fees in arrears and presentation of evidence of completion of the continuing education and orientation requirements.

d. Upon late renewal or reapplication, the board-approved supervisor's four-year renewal cycle will begin on his or her nearest licensure renewal date to the supervisor's renewal/reapproval.

e. Application for renewal after two years from the date of supervisor status lapse will not be considered for renewal. Applicants whose supervisor status has lapsed for two years or more must re-apply for certification as a board-approved supervisor under current requirements.

f. Failure to renew or reapply for board approved supervisory status does not necessarily impact the supervisor's right or ability to renew or reapply as a LMFT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:746 (April 2015).

### **§3319. Responsibilities of the Provisional Licensed Marriage and Family Therapist**

#### **A. General Responsibilities**

1. The PLMFT is responsible to be thoroughly aware of his or her legal, ethical, and professional responsibilities as a supervisee and to maintain a level of care for clients that meets the standards for licensed marriage and family therapists as described in this Rule.

2. The PLMFT is responsible to meet with the board-approved supervisor(s) for qualified supervision in the manner prescribed in the plan of supervision. The PLMFT must receive active supervision as defined in §3105.

3. The PLMFT is responsible to collaborate with his or her approved supervisor(s) in order to develop and submit to the advisory committee a plan of supervision as defined in Section 3315.B.

4. It is the responsibility of the supervisee to immediately report to the approved supervisor(s), the

supervisee's employer or contractor, and the board any changes in the supervisee's status (loss of employment, change of job status, serious illness, legal difficulty, etc.) that significantly affect the supervisee's continued qualification as a PLMFT, due qualification as a LMFT, ability to meet the terms of the plan of supervision, or ability to provide the standard of care to clients as defined in this Rule.

a. The supervisee shall report to the approved supervisor(s) and the board within thirty days any change in status that would affect the ability of the supervisor or the board to contact the supervisee, such as changes in postal address, telephone number, or e-mail address.

b. As the board-approved supervisor has knowledge, he or she shall ensure that the supervisee reports such changes in status to the board in accordance with advisory committee policy.

c. The supervisee is responsible to collaborate with his supervisor(s) over the course of his or her postgraduate clinical experience to develop, maintain, and fulfill a plan of supervision that meets the developmental needs of the supervisee, provides for an appropriate level of professional care for the supervisee's clients, allows for the adequate monitoring of the supervisee's practice by the board-approved supervisor(s) or supervisor candidate, and allows for the supervisee's timely qualification as a LMFT.

d. It is the responsibility of the supervisee to submit amendments to the plan of supervision to the advisory committee within 30 days for approval in accordance with advisory committee policy.

5. The PLMFT is responsible to meet with the approved supervisor(s) with a regularity, frequency, and manner prescribed by the board-approved plan of supervision.

a. The supervisee shall inform the board in writing within 30 days in accordance with advisory committee policy in the event that the supervisee's supervisor becomes unwilling or unable to fulfill his or her responsibility to the supervisee as defined in the board-approved plan of supervision.

b. In the event that an approved supervisor becomes unwilling or unable for any reason to fulfill the duties as a qualified supervisor, the advisory committee shall assist this supervisor's supervisees according to advisory committee policy in acquiring interim supervision until a suitable board-approved supervisor can be located in order to preserve continuity of care for the supervisee's clients.

c. Should an interim supervisor not be located in a timely manner as determined by the advisory committee, the supervisee must suspend services to clients until such time as a new supervisor can be located. In such circumstances it is the responsibility of the supervisee to work with his administrative supervisor to see that his clients are appropriately referred.

6. The supervisee is responsible to be thoroughly aware of the terms of his or her employment as an employee or private contractor as well as the administrative policies and procedures of his employer and/or administrative supervisor.

a. In the event that the standard of professional behavior and/or client care provided by the supervisee's employer or administrative supervisor exceeds that of the

minimum standards in this Rule, the supervisee should to the best of his ability adhere to the higher standard.

b. In the event that a conflict between the policies, procedures, or directives of the supervisee's employer or administrative supervisor impedes the ability of the supervisee to comply with the directives of the supervisee's board-approved supervisor(s), the terms of the supervisee's plan of supervision, or the standard of professional behavior described in this Rule, the supervisee shall inform his or her approved supervisor(s) immediately.

7. The supervisee may not have ownership of all or part of any mental health counseling practice or accept any direct fee for service from therapy clients. The supervisee may receive a wage for services rendered as an employee or as a private contractor. Should the supervisee receive monetary compensation as a private contractor for services for which his status as a supervisee qualifies him, the contractual agreement under which the supervisee receives compensation must specify a person who functions in the workplace as an administrative on-site supervisor for the supervisee in his delivery of services under the contract.

B. Specific Responsibilities of the PLMFT to the Approved Supervisor. It is the responsibility of the PLMFT to:

1. follow to the best of the supervisee's ability the clinical suggestions and directives of the supervisor as the supervisor's suggestions and directives are consistent with the ethical, legal, and professional standards provided in this Rule as determined by the advisory committee;

2. provide the supervisor with adequate information about his or her clinical work with clients such that the supervisor can monitor the supervisee's clinical practice and assist the supervisee in maintaining an appropriate standard of care for all clients. The supervisee shall provide his supervisor(s) with reasonable access to all written or electronic documentation that relates to the supervisee's provision of therapeutic services to his clients;

a. the supervisee shall inform the supervisor(s) immediately in the event that the supervisee believes that a client has committed or is a risk for suicide, homicide, or any other seriously harmful behavior to self or others or is the perpetrator of abuse to a minor, elderly, or disabled person;

b. the supervisee's reporting such information as described in Subparagraph B.2.a of this Section to the supervisor is not a substitute for the supervisee's preeminent obligation to report directly to appropriate authorities in circumstances in which the law or ethics requires the mandatory reporting of suspected abuse or imminent personal risk;

3. earnestly endeavor to resolve with the supervisee's supervisor(s) any personal or professional conflict that may hinder the supervisee in collaborating with supervisor(s) in the provision of an appropriate standard of care to clients, successfully completing the terms of the plan of supervision, or successfully qualifying for licensure as a LMFT;

a. in the event that such conflict cannot be resolved in a timely manner, the supervisee shall request assistance in writing from the advisory committee in accordance with advisory committee policy;

b. the supervisee will accept as final any plan to resolve such conflict upon recommendation of the advisory committee as approved by the board;

4. in the event of multiple supervisors, the supervisee will immediately inform the supervisor(s) if the clinical directives or ethical guidance of one supervisor seem to significantly conflict with another such that the supervisee is impeded in providing an appropriate level of client care. In the event that such conflict cannot be resolved in a timely manner, the supervisee or the supervisor(s) may request assistance in writing from the advisory committee in accordance with advisory committee policy.

C. Revocation, Suspension, or Limitation of the Terms of the Provisional Licensure of the PLMFT.

1. The board upon recommendation of the advisory committee may withhold, deny, revoke, suspend or otherwise limit the terms of the provisional licensure of a PLMFT on a finding that the PLMFT has violated any of the rules, regulations, or ethical standards for licensed or provisionally licensed marriage and family therapists as pertains to the supervision of PLMFTs contained in this Rule or prior final decisions and/or consent orders involving the PLMFT.

2. The advisory committee shall provide due notice to the supervisee's designated approved supervisor(s) of any change or potential change in the supervisee's qualification as a PLMFT in accordance with advisory committee policy.

3. The approved supervisor(s) of a supervisee whose provisional licensure as a PLMFT has been revoked, suspended, or otherwise limited shall immediately inform his administrative or site supervisor(s) of the supervisee's of change in status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 38:1970 (August 2012), amended LR 41:748 (April 2015).

### **§3321. Responsibilities of the LMFT Board-Approved Supervisor and Registered Supervisor Candidate**

#### **A. General Responsibilities**

1. It is the primary function of supervisors in their relationships with their supervisees to protect the welfare of the public in every circumstance. Supervisors work with the board and their supervisee to protect the right of every client to ethical, professional treatment. Henceforth, any portion of the Rule that applies to board-approved supervisors will also be considered to apply to supervisor candidates except where specifically noted.

a. The supervisor shall maintain a current knowledge of and represent accurately to supervisees and to the public the process of qualification of PLMFTs for licensure.

b. The supervisor shall manage all information pertaining to the clients of the supervisee with the same level of confidentiality mandated in this Rule for licensed marriage and family therapists as in their interaction with their own clients.

c. The supervisor shall, to the best of his ability and knowledge, address in an accurate, timely fashion any reasonable question or concern directed to the supervisor by

clients of the supervisee about the professional status of the supervisee or the quality of care being provided to the client by the supervisee.

d. In the event that the client of an supervisee makes a complaint or provides information to the supervisor that the supervisee may have committed a breach of the minimum standards of client care provided in this Rule resulting in harm or potential harm to the client, it is the responsibility of the supervisor to provide corrective feedback to the supervisee, warn the client of potential risk, and report the actions of the supervisee to the board in accordance with advisory committee policy.

2. A supervisor may not have more than a combined total of 10 supervisees, including PLMFTs and supervisees in other disciplines and/or registered supervisor candidates.

3. The supervisor is responsible for assisting the supervisee in developing and maintaining the plan of supervision and monitoring the timely submission of appropriate documentation to the board on behalf of the supervisee.

4. The supervisor shall provide qualified supervision to the supervisee until the supervisor has received official notice from the board that the supervisee is licensed as a LMFT, been officially assigned by the board to another supervisor, or has otherwise lost or forfeited qualification as a PLMFT. Nonpayment of the supervisor's fees by the supervisee is not grounds for the suspension by the supervisor of supervisory meetings with the supervisee as specified by the board-approved plan of supervision.

5. It is the responsibility of the supervisor to immediately report to the board and his/her designated supervisees in accordance with advisory committee policy any changes in his status (loss of employment, serious illness, legal problems, etc.) that may significantly affect his/her certification as an approved supervisor or supervisor candidate or his/her ability as an approved supervisor to fulfill his/her duties as described in this Rule or in the plan of supervision/plan of supervision-of-supervision. The supervisor shall within thirty days also report to the board any change in status that may affect the ability of the board to contact him or her (change of address, telephone number, e-mail address, etc.).

6. As he/she has knowledge, the supervisor shall ensure that the supervisee reports such changes in status to the board in accordance with advisory committee policy that would affect the ability of the supervisor or the board to contact the supervisee, such as changes in postal address, telephone number, or e-mail address.

7. It is the responsibility of the supervisor to supervise supervisees within his or her scope of practice. The supervisor shall not present himself as providing supervision in any particular therapeutic approach, technique, or theoretical orientation in which the supervisor has not been thoroughly trained and had adequate experience to provide competent supervision as determined by the advisory committee.

8. It is the responsibility of the supervisor to observe the practice of the supervisee through clinical case review, real-time observation of the supervisee's sessions, or by reviewing session video- or audio-tapes such that the supervisor is sufficiently able to monitor the practice of the supervisee and guide the supervisee in maintaining the

minimum standard of care for his clients defined in this Rule and the plan of supervision.

a. The supervisor shall ensure that the regularity, duration, and quality of supervision sessions are adequate to provide continuity, support, and nurturance to the supervisee and to monitor the professional quality of the supervisee's service provision to clients.

b. The supervisor shall provide timely, accurate feedback to the supervisee, the supervisee's other supervisors, and the advisory committee in accordance with advisory committee policy in regard to the professional development of the supervisee, his or her progress in completing the plan of supervision, or any other information that relates to the supervisee's ability to provide adequate care to clients.

c. When a supervisor receives information that suggests that the behavior of a supervisee may present a clear and significant threat to the welfare of a client, it is the responsibility of the supervisor to immediately provide corrective feedback to the supervisee.

d. In the event of Subparagraph A.8.c of this Section and if the supervisor determines that the supervisee has failed to respond appropriately by acting to protect the welfare of the client, it is the responsibility of the supervisor to immediately report the behavior of the supervisee to the board according to advisory committee policy and immediately inform the client of the potential risk. The supervisor should use his clinical judgment in such matters, balancing his or her roles as mentor to the supervisee and protector of the public with protection of the public preeminent.

9. The supervisor shall keep true, accurate, and complete records in accordance with advisory committee policy of his or her interactions with supervisees and their clients and respond within 30 days to any request by the board to audit records pertaining to the supervision of supervisees.

10. It is the responsibility of the supervisor to recommend for licensure as a LMFT those and only those PLMFTs that to the best of his or her knowledge have completed the requirements for licensure contained in this statute, satisfactorily fulfilled the terms of the board-approved plan of supervision, and have otherwise demonstrated a satisfactory level of competence in delivering professional services to their clients during the course of their postgraduate clinical experience.

11. ...

B. Specific Responsibilities of the Supervisor to the PLMFT. It is the responsibility of the supervisor to:

1. review with the supervisee a copy of the supervisor's board-approved statement of practice, provide a copy of this statement to the supervisee, and file a copy of this statement with the board in accordance with advisory committee policy;

2. provide guidance and training to the supervisee in the ethical and competent delivery of psychotherapeutic services in a manner that leads the supervisee toward qualification as a LMFT. This includes but is not limited to guidance and training in diagnosis and treatment of emotional, mental, behavioral, and addictive disorders, problem assessment, treatment plan development,

application of therapeutic knowledge, joining skills, technique selection, intervention skills/outcome assessment, application of ethical and legal principles, case documentation and reporting, case management, and consultation protocol;

3. provide a respectful and confidential learning environment for the supervisee that promotes the supervisee's professional development as a LMFT, encourages the supervisee's successful completion of the plan of supervision, and provides a controlled space for supervision sessions where the supervisee may discuss confidential case material without the risk of violating client confidentiality;

4. oversee the formulation of the supervisee's plan of supervision in accordance with advisory committee policy that provides reasonable access for the supervisee to the board-approved supervisor and the supervision process, meets the developmental needs of the supervisee, and affords the supervisor adequate contact with the supervisee to appropriately monitor the quality of the supervisee's service delivery to clients;

a. the supervisee or the supervisor may request to amend the plan of supervision during the course of post-graduate clinical experience. Changes to the plan of supervision should be the result of collaboration between the supervisee and the board-approved supervisor;

b. it is the responsibility of the supervisor to oversee the supervisee's submission of amendments to the plan of supervision to the advisory committee within thirty days for approval in accordance with advisory committee policy;

5. assist the supervisee in finding a suitable resolution in the event that the policies of the supervisee's employer or contractor impede the supervisee in providing a level of care to clients that meets the standards provided by board policy or this Rule. The supervisor should make reasonable effort to assist the supervisee in resolving such conflicts in a manner that if possible allows the supervisee to maintain his or her employment, comply fully with responsibilities as described in this statute, and complete the plan of supervision successfully;

6. assist the supervisee in identifying personal and professional strengths and weaknesses that affect the supervisee's development as a family therapist and provide regular, meaningful feedback in accordance with advisory committee policy that will help the supervisee reinforce his strengths while improving his weaknesses;

7. avoid any dual relationship that could result in exploitation of the supervisee, compromise the supervisor's ability to prioritize the welfare of the supervisee's clients, or hinder the supervisor in providing objective feedback to the board or the supervisee about his progress toward qualification as a LMFT;

a. in the event that the supervisor also has administrative responsibility for the supervisee in an agency or business, it is the responsibility of the supervisor to prioritize the welfare of the supervisee's clients and the developmental needs of the supervisee over the needs of the supervisor's employing organization;

b. the supervisor should not employ the supervisee in his or her business as an employee or as a private contractor. In the event that such employment is necessary to

the supervisee's ability to qualify as a PLMFT, special permission for such employment may be granted at the discretion of the advisory committee;

c. if the PLMFT is employed by or contracts with the supervisor in his business or private practice to provide services for which his status as PLMFT qualifies him, the supervisor must not profit monetarily from the services of the supervisee beyond the supervisor's reasonable and customary fee for supervision as reflected in the board-approved supervisor's statement of practice and as defined in the supervisee's board-approved plan of supervision;

d. the supervisor shall not maintain any social relationship (friendship or romantic relationship) with the supervisee that could result in exploitation of the supervisee or could impair the objectivity of the supervisor in his or her roles as trainer of the supervisee and protector of the public;

8. submit all appropriate documentation designated for supervisors using the appropriate forms as determined by the advisory committee and in a manner that does not unnecessarily impede the supervisee's ability in a timely manner to qualify as a LMFT;

9. refer the supervisee for counseling or psychotherapy at the request of the supervisee or as the supervisor may deem prudent in assisting the supervisee in maintaining mental and emotional health sufficient to provide services to clients that meet the standard of care as defined by this Rule. The supervisee's supervisor(s) shall not under any circumstances provide counseling, psychotherapy, or psychological testing to the supervisee;

10. earnestly endeavor to resolve with the supervisee any personal, professional, or ethical conflicts that hinder the supervisor in effectively collaborating with the supervisee toward the provision of an appropriate standard of care to clients or successfully completing the terms of the plan of supervision.

a. It is the responsibility of the supervisor to take appropriate initiative to resolve such conflicts in a manner that is respectful to the supervisee and preserves continuity of care for the supervisee's clients.

b. ...

D. Revocation, Suspension, or Limitation of the Board-Approved Supervisor Certificate of a Licensed Marriage and Family Therapist

1. The board upon recommendation of the advisory committee may withhold, deny, revoke, suspend or limit the board-approved supervisor certification of a LMFT on a finding that the board-approved supervisor has violated any of the rules, regulations, or ethical standards for board-approved supervisors as pertains to the supervision of PLMFTs contained in this Rule or prior final decisions and/or consent orders involving the board-approved supervisor or supervisor candidate.

2. The advisory committee shall provide due notice to the supervisor and his or her assigned PLMFTs and/or supervisor candidates of any change in the supervisor's qualification in accordance with advisory committee policy.

3. The board-approved supervisor or supervisor candidate has 90 days to appeal to the advisory committee in writing in accordance with advisory committee policy any withholding, denial, revocation, suspension, or limiting of the licensee's certification as board-approved supervisor or registration as a board-approved supervisor candidate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 38:1972 (August 2012), amended LR 41:750 (April 2015).

## **Chapter 35. Renewal of License for Licensed Marriage and Family Therapists**

### **§3503. Continuing Education Requirements**

A. - A.4. ...

5. The licensee is responsible for keeping a personal record of his/her continuing education hours until official notification of renewal is received. Licensees should not forward documentation of CEHs to the board office as they are accrued.

6. - 8. ...

9. A licensee must accrue six clock hours of training in diagnosis every renewal period that specifically addresses the assessment, diagnosis, and treatment of clinical conditions under the *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-5), as published by the American Psychiatric Association on May 18, 2013. This required training may be specific to the diagnosis, assessment, and treatment of a particular condition and/or may be general training in diagnosis, assessment, and treatment under the *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-5), as published on May 18, 2013

10. Those licensed marriage and family therapists who hold another license that requires continuing education hours may count the continuing education hours obtained for that license toward their LMFT CEH requirements. Of the 40 CEHs submitted, however, 20 hours must be in the area of marriage and family therapy with an emphasis upon systemic approaches or the theory, research, or practice of systemic psychotherapeutic work with couples or families including three clock hours of ethics specific to marriage and family therapy and six clock hours specific to diagnosis.

11. The approval of and requirements for continuing education are specified in Subsection C.

B. - B.4. ...

C. Approved Continuing Education for Licensed Marriage and Family Therapists

1. ...

2. An LMFT may obtain the 40 clock hours of continuing education through the options listed. Effective January 1, 2017, a maximum of 20 CEHs may be obtained through an online format, with the exception of coursework obtained through a regionally accredited institution of higher education. All continuing education hours may be obtained through Subparagraph a or 20 of the 40 hours may be obtained through Subparagraph b:

2.a. - 3.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:160 (February 2003), repromulgated LR 29:581 (April 2003), amended LR 29:2789 (December 2003), LR 41:752 (April 2015).

## **Chapter 37. Endorsement and Expedited Processing**

### **§3701. Endorsement**

A. Upon recommendation of the board and Marriage and Family Therapy Advisory Committee, the board shall issue a



license to any person who has been licensed as a marriage and family therapist and has actively practiced marriage and family therapy for at least five years in another jurisdiction. The applicant must submit an application on forms prescribed by the board in the prescribed manner and pay the required licensure fee. Applicants must also have passed the Association of Marital and Family Therapy Regulatory Board's examination in marital and family therapy. An applicant must submit documentation of at least 40 CEHs, in accordance with the requirements listed in Chapter 35, within two years of the date of application for licensure endorsement in Louisiana. An applicant must also be in good standing in all jurisdictions in which they are licensed and must not have been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice marriage and family therapy in the state of Louisiana at the time the act was committed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:162 (February 2003), LR 39:1806 (July 2013), LR 41:752 (April 2015).

## **Chapter 39. Disciplinary Proceedings**

### **§3901. Causes for Administrative Action**

A. The board, upon recommendation of the advisory committee, after due notice and hearing as set forth herein and the Administrative Procedure Act, R.S. 49:950 et seq., may withhold, deny, revoke or suspend any license or provisional license issued or applied for or otherwise discipline a licensed marriage and family therapist or provisional licensed marriage and family therapist on a finding that the person has violated R.S. 37: 1101-1123, any of the rules, regulations, and ethical standards for marriage and family therapy promulgated by the board for the advisory committee, or prior final decisions and/or consent orders involving the licensed marriage and family therapist, provisional licensed marriage and family therapist, or applicant for licensure or provisional licensure. Additionally, the board, upon recommendation of the advisory committee, may withhold, deny, revoke, or suspend any license or provisional license issued or applied for, or otherwise discipline or a LMFT or PLMFT as provided by other applicable state or federal laws, including but not limited to the following violations:

1. - 5. ...

B. Sometimes hereinafter, where the context allows, a licensed marriage and family therapist, provisional licensed marriage and family therapist, or applicant for licensure or provisional licensure may be referred to as a licensee or applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:162 (February 2003), amended LR 41:753 (April 2015).

### **§3903. Disciplinary Process and Procedures**

A. - B. ...

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the

person did certain acts or omissions and, if he did, whether those acts or omissions violated the Louisiana Mental Health Counselor Licensing Act, the rules and regulations and ethical standards for licensed marriage family therapy promulgated by the board for the advisory committee, or prior final decisions and/or consent orders involving the licensed marriage and family therapist, provisional licensed marriage and family therapist, or applicant for licensure or provisional licensure and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:162 (February 2003), amended LR 41:753 (April 2015).

### **§3905. Initiation of Complaints**

A. - B. ...

C. Pursuant to its authority to regulate this industry, the board, upon recommendation of the advisory committee through its disciplinary committee, may issue subpoenas to secure evidence of alleged violations of the Louisiana Mental Health Counselor Licensing Act, any of the rules and regulations or ethical standards for licensed marriage and family therapists or provisional licensed marriage and family therapists promulgated by the board for the advisory committee, or prior final decisions and/or consent orders involving the licensed marriage and family therapist, provisional licensed marriage and family therapists, or applicant for licensure or provisional licensure. The subpoenaed confidential or privileged records of a patient or client are to be sanitized by the custodian of such records so as to maintain the anonymity of the patient or client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:162 (February 2003), amended LR 41:753 (April 2015).

### **§3909. Formal Hearing**

A. The board upon recommendation of the disciplinary committee has the authority, granted by R.S. 37:1101 et seq., to bring administrative proceedings against persons to whom it has issued a license or provisional license upon recommendation of the advisory committee to practice as a licensed marriage and family therapist, provisional licensed marriage and family therapist, or any applicant requesting a license or provisional license. The person has the right to:

A.1. - C.2.b.iv. ...

3. A notice of hearing is issued pursuant to R.S. 49:955, charging the violation of one or more of the provisions of the Louisiana Mental Health Counselor Licensing Act, the rules and regulations and ethical standards for licensed marriage and family therapists and provisional licensed marriage and family therapists promulgated by the board for the advisory committee thereto, or prior final decisions and/or consent orders involving the person.

4. - 8.d. ...

9. The board chair presides as chair of the board over all hearings for licensed marriage and family therapists and provisional licensed marriage and family therapists. The customary order of proceedings at a hearing is as follows.

9.a. - 13.a.ii. ...

iii. Determine whether charges brought are a violation of the Louisiana Mental Health Counselor Licensing Act or rules and regulations and ethical standards for marriage and family therapy promulgated by the board for the advisory committee.

b. Deliberation

i. - iii. ...

iv. After considering and voting on each charge, the board will vote on a resolution to dismiss the charges, withhold, deny, revoke or suspend any license or provisional license issued or applied for or otherwise discipline a licensed marriage and family therapist, provisional licensed marriage and family therapist, or applicant for licensure or provisional licensure.

v. The board by affirmative majority vote may vote to withhold, deny, revoke, or suspend any license or provisional license issued or applied for in accordance with the provisions of R.S. 37, Chapter 13, or otherwise discipline a licensed marriage and family therapist, provisional licensed marriage and family therapist, or applicant.

c. Sanctions against the person who is party to the proceedings are based upon findings of fact and conclusions of law determined as a result of the hearing. The party is notified by certified mail of the final decision of the board.

14. - 15.c.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:163 (February 2003), amended LR 41:753 (April 2015).

#### **§3915. Refusal to Respond or Cooperate with the Board**

A. ...

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action by the board that could eventually lead to the withholding, denial, revocation or suspension of his/her license, provisional license, or application for licensure or provisional licensure, or otherwise issue appropriate disciplinary sanction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:165 (February 2003), amended LR 41:754 (April 2015).

#### **§3917. Judicial Review of Adjudication**

A. Any person whose license, provisional license, or application for licensure or provisional licensure, has been withheld, denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the 19th Judicial District Court for the parish of East Baton Rouge, provided that such petition for judicial review is filed within 30 days after receipt of the notice of the decision of the board. If judicial review is granted, the board's decision remains enforceable in the interim unless the 19th Judicial District Court orders a stay. Pursuant to the applicable section of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:166 (February 2003), amended LR 41:754 (April 2015).

#### **§3921. Reinstatement of Suspended or Revoked License**

A. The board is authorized to suspend the license of a licensed marriage and family therapist and the license of a provisional licensed marriage and family therapist for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may reinstate or revoke the license or provisional license. A person whose license or provisional license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:166 (February 2003), amended LR 41:754 (April 2015).

#### **§3927. Disciplinary Costs and Fines**

A. The board may assess and collect fines not to exceed five thousand dollars for violation of any causes for administrative action as specified in Section 3901.

B. The board may assess all costs incurred in connection with disciplinary proceedings including but limited to the costs of an investigator, stenographer, legal fees, or witness fees, and any costs and fees incurred by the board on any judicial review or appeal, for any licensee who has been found in violation of any causes for administrative action as specified in 3901.

C. After the decision of the board becomes final and delays for judicial review have expired, all costs and fees must be paid no later than 90 days or within a time period specified by board.

D. The board may withhold any issuance or reissuance of any license or certificate until all costs and fees are paid.

E. A person aggrieved by a final decision of the board who prevails upon judicial review may recover reasonable costs as defined in R.S. 37:1106(D)(2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:754 (April 2015).

### **Chapter 41. Informed Consent**

#### **§4101. General Provisions**

A. Licensees obtain appropriate informed consent to therapy or related procedures before the formal therapeutic process begins. Information provided to clients by licensees about the treatment process shall include, but is not limited to, the licensee's statement of practice as outlined in the appendix (§4720). The licensee should be sure that the client understands all information provided before asking for consent to treatment. The content of informed consent may vary depending on the client and treatment plan; however, informed consent generally necessitates that the client:

1. - 5. ...

B. When persons, due to age or mental status, are legally incapable of giving informed consent, licensees obtain informed permission from a legally authorized person, if such substitute consent is legally permissible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:166 (February 2003), amended LR 41:754 (April 2015).

## **Chapter 43. Privileged Communications**

### **§4301. Privileged Communication with Clients**

A. Licensees disclose to clients and other interested parties, as early as feasible in their professional contacts, the nature of confidentiality in the therapeutic process and possible limitations of the clients' right to confidentiality. Licensees review with clients the circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. Circumstances may necessitate repeated disclosures. Licensees also shall be aware of specific ethical requirements concerning marriage and family therapy as specified in the Code of Ethics (Chapter 47) and in §4301.C.

B. Licensees do not disclose client confidences except by written authorization or waiver, court order, or where mandated or specifically permitted by law, or reasonably necessary to protect the client or other parties from a clear and imminent threat of serious physical harm. Verbal authorization may be sufficient in emergency situations or where otherwise permitted by law.

C. Licensees shall be cognizant of and adhere to any confidentiality requirement that may differ from requirements in other licenses they hold. Licensees have unique confidentiality concerns because the client in a therapeutic relationship may be more than one person. Licensees respect and guard the confidences of each individual client within the system of which they are working as well as the confidences of the system.

1. When providing couple, family, or group treatment, a licensee shall not disclose information outside the treatment context without a written authorization from each individual competent to execute a waiver.

2. In the context of couple, family, or group treatment, the licensee may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:167 (February 2003), amended LR 41:755 (April 2015).

## **Chapter 45. Exemptions**

### **§4501. Exemptions**

A. No person shall be required to obtain a license as a licensed marriage and family therapist or a provisional license as a provisional licensed marriage and family therapist. As stated in R.S. 37:1122(A), no person shall use of the title "licensed marriage and family therapist" or "provisional licensed marriage and family therapist".

B. Nothing in this Chapter shall prevent qualified members of other professional groups as defined by the board upon recommendation of the advisory committee including but not limited to clinical social workers, psychiatric nurses, psychologists, physicians, licensed professional counselors, or members of the clergy, including Christian science practitioners, from doing or advertising

that they perform work of a marriage and family therapy nature consistent with the accepted standards of their respective professions. However, no such person shall use the title "licensed marriage and family therapist" or "provisional licensed marriage and family therapist". (R.S. 37:1121).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:167 (February 2003), amended LR 41:755 (April 2015).

## **Chapter 47. Code of Ethics**

### **§4701. General**

A. The Marriage and Family Therapy Advisory Committee strives to honor the public trust in licensed marriage and family therapists and provisional licensed marriage and family therapists by setting the standards for ethical practice as described in this code of ethics.

B. Licensees have an obligation to be familiar with this code of ethics and its application to their professional services. They also must be familiar with any applicable ethical codes that govern other licensure that they hold or are responsible for through certification or membership in professional organizations. Lack of awareness or misunderstanding of an ethical standard is not a defense to a charge of unethical conduct.

C. These ethical standards govern the practice of marriage and family therapy and professional functioning of the advisory committee and shall be enforced by the board through the advisory committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:167 (February 2003), amended LR 41:755 (April 2015).

### **§4703. Resolving Ethical Issues**

A. The absence of an explicit reference to a specific behavior or situation in the code does not mean that the behavior is ethical or unethical. The standards are not exhaustive. Licensees shall consult with other licensees who are knowledgeable about ethics, with colleagues, with LMFT-approved supervisors, or with appropriate authorities when:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:167 (February 2003), amended LR 41:755 (April 2015).

### **§4705. Responsibility to Clients**

A. Licensees advance the welfare of families and individuals. They respect the rights of those persons seeking their assistance and make reasonable efforts to ensure that their services are used appropriately.

B. Licensees provide professional assistance to persons without discrimination on the basis of race, age, ethnicity, socioeconomic status, disability, gender, health status, religion, national origin, or sexual orientation.

C. Licensees obtain appropriate informed consent to therapy or related procedures early in the therapeutic relationship, usually before the therapeutic relationship

begins, and use language that is reasonably understandable to clients. The licensee will provide all clients with a statement of practice subject to review and approval by the advisory committee (See §4720, Appendix). The content of informed consent may vary depending upon the licensee's areas of expertise, the client(s) and treatment plan.

1. - 1.c. ...

2. When persons, due to age or mental status, are legally incapable of giving informed consent, licensees obtain informed permission from a legally authorized person, if such substitute consent is legally permissible.

D. Licensees are aware of their influential positions with respect to clients, and they avoid exploiting the trust and dependency of such persons. Licensees, therefore, make every effort to avoid conditions and multiple relationships with clients that could impair professional judgment or increase the risk of exploitation. Such relationships include, but are not limited to, business or close personal relationships with a client or the client's immediate family. When the risk of impairment or exploitation exists due to conditions or multiple roles, therapists take appropriate precautions.

E. ...

F. Sexual intimacy with former clients is likely to be harmful and is therefore prohibited for two years following the termination of therapy or last professional contact. In an effort to avoid exploiting the trust and dependency of clients, licensees should not engage in sexual intimacy with former clients after the two years following termination or last professional contact. Should licensees engage in sexual intimacy with former clients following two years after termination or last professional contact, the burden shifts to the licensee to demonstrate that there has been no exploitation or injury to the former client or to the client's immediate family.

G. Licensees comply with applicable laws regarding the reporting of alleged unethical conduct.

H. Licensees do not use their professional relationships with clients to further their own interests.

I. Licensees respect the rights of clients to make decisions and help them to understand the consequences of these decisions. Licensees clearly advise the clients that they have the responsibility to make decisions regarding relationships such as cohabitation, marriage, divorce, separation, reconciliation, custody, and visitation.

J. Licensees continue therapeutic relationships only so long as it is reasonably clear that clients are benefiting from the relationship.

K. Licensees assist persons in obtaining other therapeutic services if the licensee is unable or unwilling, for appropriate reasons, to provide professional help.

L. Licensees do not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment.

M. Licensees obtain written informed consent from clients before videotaping, audio recording, or permitting third-party observation.

N. Licensees, upon agreeing to provide services to a person or entity at the request of a third party, clarify, to the extent feasible and at the outset of the service, the nature of the relationship with each party and the limits of confidentiality.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:168 (February 2003), amended LR 41:755 (April 2015).

#### **§4707. Confidentiality**

A. Licensees have unique confidentiality concerns because the client in a therapeutic relationship may be more than one person. Licensees respect and guard the confidences of each individual client.

B. Licensees disclose to clients and other interested parties, as early as feasible in their professional contacts, the nature of confidentiality and possible limitations of the clients' right to confidentiality. Licensees review with clients the circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. Circumstances may necessitate repeated disclosures.

C. Licensees do not disclose client confidences except by written authorization or waiver, or where mandated or permitted by law. Verbal authorization will not be sufficient except in emergency situations, unless prohibited by law, specifically in instances of danger to self or others, suspected child abuse/neglect, elderly abuse/neglect, or disabled adult abuse/neglect. When providing couple, family or group treatment, the licensee does not disclose information outside the treatment context without a written authorization from each individual competent to execute a waiver. In the context of couple, family or group treatment, the licensee may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

D. Licensees use client and/or clinical materials in teaching, writing, consulting, research, and public presentations only if a written waiver has been obtained in accordance with this Section, or when appropriate steps have been taken to protect client identity and confidentiality.

E. Licensees store, safeguard, and dispose of client records in ways that maintain confidentiality and in accord with applicable laws and professional standards.

F. Subsequent to the licensee moving from the area, closing the practice, or upon the death of the licensee, a licensee arranges for the storage, transfer, or disposal of client records in ways that maintain confidentiality and safeguard the welfare of clients.

G. Licensees, when consulting with colleagues or referral sources, do not share confidential information that could reasonably lead to the identification of a client, research participant, supervisee, or other person with whom they have a confidential relationship unless they have obtained the prior written consent obtained in accordance with this Section of the client, research participant, supervisee, or other person with whom they have a confidential relationship. Information may be shared only to the extent necessary to achieve the purposes of the consultation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:168 (February 2003), amended LR 41:756 (April 2015).

#### **§4709. Professional Competence and Integrity**

A. Licensees maintain high standards of professional competence and integrity.

B. Licensees pursue knowledge of new developments and maintain competence in marriage and family therapy through education, training, or supervised experience.

C. Licensees maintain adequate knowledge of and adhere to applicable laws, ethics, and professional standards.

D. Licensees seek appropriate professional assistance for their personal problems or conflicts that may impair work performance or clinical judgment.

E. Licensees do not provide services that create a conflict of interest that may impair work performance or clinical judgment.

F. Licensees, as presenters, teachers, supervisors, consultants and researchers, are dedicated to high standards of scholarship, present accurate information, and disclose potential conflicts of interest.

G. Licensees maintain accurate and adequate clinical and financial records.

H. While developing new skills in specialty areas, licensees take steps to ensure the competence of their work and to protect clients from possible harm. Licensees practice in specialty areas new to them only after appropriate education, training, or supervised experience.

I. Licensees do not engage in sexual or other forms of harassment of clients, students, trainees, supervisees, employees, colleagues, or research subjects.

J. Licensees do not engage in the exploitation of clients, students, trainees, supervisees, employees, colleagues, or research subjects.

K. Licensees do not give to or receive from clients:

1. - 2. ...

L. Licensees do not diagnose, treat, or advise on problems outside the recognized boundaries of their competencies.

M. Licensees make efforts to prevent the distortion or misuse of their clinical and research findings.

N. Licensees, because of their ability to influence and alter the lives of others, exercise special care when making public their professional recommendations and opinions through testimony or other public statements.

O. To avoid a conflict of interests, licensees who treat minors or adults involved in custody or visitation actions may not also perform forensic evaluations for custody, residence, or visitation of the minor. The licensee who treats the minor may provide the court or mental health professional performing the evaluation with information about the minor from the licensee's perspective as a treating licensed or provisionally licensed marriage and family therapist, so long as the licensee does not violate confidentiality.

P. Licensees are in violation of this code and subject to revocation or suspension of licensure or provisional licensure or other appropriate action by the board through the advisory committee if they:

1. - 5. ...

6. continue to practice marriage and family therapy while no longer competent to do so because they are impaired by physical or mental causes or the abuse of alcohol or other substances; or

7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:169 (February 2003), amended LR 41:757 (April 2015).

#### **§4711. Responsibility to Students and Supervisees**

A. Licensees do not exploit the trust and dependency of students and supervisees.

B. Licensees are aware of their influential positions with respect to students and supervisees, and they avoid exploiting the trust and dependency of such persons. Licensees, therefore, make every effort to avoid conditions and multiple relationships that could impair professional objectivity or increase the risk of exploitation. When the risk of impairment or exploitation exists due to conditions or multiple roles, licensees take appropriate precautions.

C. Licensees do not provide therapy to current students or supervisees.

D. Licensees do not engage in sexual intimacy with students or supervisees during the evaluative or training relationship between the therapist and student or supervisee. Should a supervisor engage in sexual activity with a former supervisee, the burden of proof shifts to the supervisor to demonstrate that there has been no exploitation or injury to the supervisee.

E. Licensees do not permit students or supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.

F. Licensees take reasonable measures to ensure that services provided by supervisees are professional.

G. Licensees avoid accepting as supervisees or students those individuals with whom a prior or existing relationship could compromise the licensee's objectivity. When such situations cannot be avoided, therapists take appropriate precautions to maintain objectivity. Examples of such relationships include, but are not limited to, those individuals with whom the licensee has a current or prior sexual, close personal, immediate familial, or therapeutic relationship.

H. Licensees do not disclose supervisee confidences except by written authorization or waiver, or when mandated or permitted by law. In educational or training settings where there are multiple supervisors, disclosures are permitted only to other professional colleagues, administrators, or employers who share responsibility for training of the supervisee. Verbal authorization will not be sufficient except in emergency situations, unless prohibited by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:170 (February 2003), amended LR 41:757 (April 2015).

#### **§4713. Responsibility to Research Participants**

A. - C. ...

D. Investigators respect each participant's freedom to decline participation in or to withdraw from a research study at any time. This obligation requires special thought and consideration when investigators or other members of the research team are in positions of authority or influence over participants. Licensees, therefore, make every effort to avoid

multiple relationships with research participants that could impair professional judgment or increase the risk of exploitation.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:170 (February 2003), amended LR 41:757 (April 2015).

#### **§4715. Responsibility to the Profession**

A. Licensees respect the rights and responsibilities of professional colleagues and participate in activities that advance the goals of the profession.

B. Licensees remain accountable to the standards of the profession when acting as members or employees of organizations. If the mandates of an organization with which a licensee is affiliated, through employment, contract or otherwise, conflict with the Code of Ethics, licensees make known to the organization their commitment to the Code of Ethics and attempt to resolve the conflict in a way that allows the fullest adherence to the Code of Ethics.

C. Licensees assign publication credit to those who have contributed to a publication in proportion to their contributions and in accordance with customary professional publication practices.

D. Licensees do not accept or require authorship credit for a publication based on research from a student's program, unless the therapist made a substantial contribution beyond being a faculty advisor or research committee member. Coauthorship on a student thesis, dissertation, or project should be determined in accordance with principles of fairness and justice.

E. Licensees who are the authors of books or other materials that are published or distributed do not plagiarize or fail to cite persons to whom credit for original ideas or work is due.

F. Licensees who are the authors of books or other materials published or distributed by an organization take reasonable precautions to ensure that the organization promotes and advertises the materials accurately and factually.

G. Licensees participate in activities that contribute to a better community and society, including devoting a portion of their professional activity to services for which there is little or no financial return.

H. Licensees are concerned with developing laws and regulations pertaining to marriage and family therapy that serve the public interest, and with altering such laws and regulations that are not in the public interest.

I. Licensees encourage public participation in the design and delivery of professional services and in the regulation of practitioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:170 (February 2003), amended LR 41:758 (April 2015).

#### **§4717. Financial Arrangements**

A. Licensees make financial arrangements with clients, third-party payors, and supervisees that are reasonably

understandable and conform to accepted professional practices.

B. Licensees do not offer or accept kickbacks, rebates, bonuses, or other remuneration for referrals; fee-for-service arrangements are not prohibited.

C. Prior to entering into the therapeutic or supervisory relationship, licensees clearly disclose and explain to clients and supervisees:

1. - 4. ...

D. Licensees give reasonable notice to clients with unpaid balances of their intent to seek collection by agency or legal recourse. When such action is taken, licensees will not disclose clinical information.

E. Licensees represent facts truthfully to clients, third party payors, and supervisees regarding services rendered.

F. Licensees ordinarily refrain from accepting goods and services from clients in return for services rendered. Bartering for professional services may be conducted only if:

1. - 4. ...

G. Licensees may not withhold records under their immediate control that are requested and needed for a client's treatment solely because payment has not been received for past services, except as otherwise provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:171 (February 2003), amended LR 41:758 (April 2015).

#### **§4719. Advertising**

A. Licensees engage in appropriate informational activities, including those that enable the public, referral sources, or others to choose professional services on an informed basis.

B. Licensees accurately represent their competencies, education, training, and experience relevant to their practice of marriage and family therapy.

C. Licensees ensure that advertisements and publications in any media (such as directories, announcements, business cards, newspapers, radio, television, Internet, and facsimiles) convey information that is necessary for the public to make an appropriate selection of professional services. Information could include:

1. - 3. ...

4. licensed or provisional licensed marriage and family therapist status; and

5. ...

D. Licensees do not use names that could mislead the public concerning the identity, responsibility, source, and status of those practicing under that name, and do not hold themselves out as being partners or associates of a firm if they are not.

E. Licensees do not use any professional identification (such as a business card, office sign, letterhead, Internet, or telephone or association directory listing) if it includes a statement or claim that is false, fraudulent, misleading, or deceptive.

F. In representing their educational qualifications, licensees list and claim as evidence only those earned degrees:

1. - 3. ...

G. Licensees correct, wherever possible, false, misleading, or inaccurate information and representations made by others concerning the licensee's qualifications, services, or products.

H. Licensees make certain that the qualifications of their employees or supervisees are represented in a manner that is not false, misleading, or deceptive.

I. Licensees do not represent themselves as providing specialized services unless they have the appropriate education, training, or supervised experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:171 (February 2003), amended LR 41:758 (April 2015).

#### **§4720. Appendix—Statement of Practice for Licensed Marriage and Family Therapists**

A. Each licensed marriage and family therapist/PLMFT in Louisiana shall write a statement of practice incorporating the following information to provide to all clients. Licensees also licensed in other mental health professions may need to add additional information required by that licensure. This statement is subject to review and approval by the advisory committee. Sample statements of practice are available from the board office.

1. ...
2. Qualifications:
  - a. ...
  - b. your LMFT or PLMFT licensure or provisional licensure number, noting that the Board of Examiners is the grantor of your license or provisional license. Include the address and telephone number of the board;
  - c. ...
  - d. a PLMFT must use this title and include the name and address of his/her approved supervisor and a brief explanation of how supervision affects the therapy provided.
3. - 6.c. ...
7. Code of Ethics
  - a. State that you are required by state law to adhere to The Louisiana Code of Ethics for Licensed and Provisionally Licensed Marriage and Family Therapists; and
  - b. - c. ...
8. Describe the rules governing privileged communication for licensees. You may use your own language, but need to cover all the areas included in the Sample Statement and Subparagraphs 8.a-c.
  - a. ...
  - b. Include the information that when providing couple, family or group treatment, a licensee cannot:
    - 8.b.i. - 12.
13. End with a general statement indicating that the client(s) have read and understand the statement of practice, providing spaces for the date, client(s)' signatures, and your signature. PLMFTs need to have a line for their LMFT-approved supervisor's signature.

B. ...

C. A licensed marriage and family therapist/ provisional licensed marriage and family therapist must have a current copy of his/her statement of practice on file in the board office. A PLMFT must include a copy of his/her statement of practice with each application for or change in supervision. The Code of Ethics can be duplicated for clients and

additional copies are available at [www.lpcboard.org](http://www.lpcboard.org) or from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:172 (February 2003), amended LR 29:2791 (December 2003), LR 41:759 (April 2015).

Mary Alice Olsan  
Executive Director

1504#027

### **RULE**

#### **Department of State Elections Division**

Merit Evaluation for Registrars of Voters  
(LAC 31:II.Chapter 1)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and under the authority of R.S. 18:18, R.S. 18:55, R.S. 18:59, and R.S. 36:742, the secretary of state has amended LAC 31:II.Chapter 1, Section 107 to modify the procedure for merit evaluations of the registrars of voters, adopted LAC 31:II.Chapter 1, Section 108 to codify the appeal process for merit evaluations of the registrars of voters, and amended LAC 31:II.Chapter 1, Section 109 to modify the procedure for merit evaluations of the chief deputies and confidential assistants.

### **Title 31**

### **ELECTIONS**

#### **Part II. Voter Registration and Voter Education**

#### **Chapter 1. Registrar of Voters**

#### **§107. Merit Evaluation for the Registrar of Voters**

A. The secretary of state hereby designates the director of registration in the Department of State to conduct the annual evaluation of each parish registrar of voters by reviewing the completed evaluation and data submitted by each registrar of voters. The evaluation will consider the timely performance of the registrar's job responsibilities as required by title 18 of the *Louisiana Revised Statutes*. Upon completion of the rating of a registrar by the director of registration, the director of registration shall submit the evaluation to the commissioner of elections for review and either approval or disapproval depending on the information submitted. If the commissioner of elections does not approve the rating given by the director of registration, the registrar will be given the rating recommended by the commissioner of elections. The registrar's evaluation is then submitted to the Department of State Human Resources office. If the registrar receives an "excellent" rating, Human Resources will process the merit increase. If the registrar receives a "satisfactory" rating, Human Resources will not process the merit increase.

B. Annually, the criteria and procedure for the merit evaluation shall be determined by the secretary of state or his designee in conjunction with the Registrar of Voters Association. The secretary of state or his designee shall prepare written instructions and forms to be utilized for the evaluation. Evaluation forms with instructions shall be submitted to the registrars of voters no later than November 1 for completion. The form shall include mandated duties

required of the registrar's office in accordance with title 18 of the *Louisiana Revised Statutes* and other applicable laws with input from the Board of Review for Evaluation of the Registrar of Voters Association; however, the form is not intended to be all inclusive of all of the duties mandated in title 18 of the *Louisiana Revised Statutes* and other applicable laws. If a registrar receives an "excellent" rating, the registrar is eligible for a merit increase in January. If a registrar does not receive an "excellent" rating, the registrar will be rated "satisfactory" and is not eligible to receive a January merit increase. Also, if a registrar is a certified elections registration administrator (CERA) and does not receive an "excellent" rating, the registrar is not eligible to receive the 7 percent CERA certification pay increase for that year pursuant to R.S. 18:59.4.

C. The parish registrar of voters will have until December 15 to submit a completed evaluation form with supporting documentation to the Department of State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008), amended LR 41:759 (April 2015).

#### **§108. Appeal of Merit Evaluation for the Registrar of Voters**

##### **A. Submission of a Request for Appeal**

1. A registrar of voters who does not receive an "excellent" rating on his or her annual merit evaluation may appeal that rating to the Registrars of Voters Evaluation Appeals Committee.

2. The request for appeal shall be in writing and shall be postmarked or received by the human resources director in the Department of State, or the human resources director's designee, no later than January 30.

3. The request for appeal shall explain the reasons for the request and may provide supporting documentation.

4. If the request for appeal is timely and contains the required explanation, the human resources director shall submit a notification of the request to the chairperson of the Registrars of Voters Evaluation Appeals Committee and to the director of registration. The notification of request for appeal shall include copies of the written request of the registrar of voters, the original annual merit evaluation, and any supporting documentation provided by the registrar of voters with his or her written request for appeal.

5. The Department of State grievance process shall not be used to review or reconsider evaluations or a procedural violation of the evaluation process.

##### **B. The Registrars of Voters Evaluation Appeals Committee**

1. All written requests for appeal of annual merit evaluations that meet the requirements of Subsection A of this Section shall be considered by the Registrars of Voters Evaluation Appeals Committee.

2. The Registrars of Voters Evaluation Appeals Committee shall consist of seven members. Three members shall be registrars of voters appointed by the Registrar of Voters Association. Four members shall be appointed by the secretary of state, one of which shall be a registrar of voters who shall act as chairperson of the committee. The chairperson shall vote only to break a tie. The director of

registration and the commissioner of elections shall not be appointed to the committee.

3. The chairperson shall convene a meeting of the Registrars of Voters Evaluation Appeals Committee within 15 days of receipt of notification of the request for appeal to discuss the request and render a decision regarding the rating. The committee may vote to uphold the "satisfactory" rating or to change the rating to "excellent".

4. The chairperson of the committee shall give written notice of the committee's decision to the affected registrar of voters, the director of registration, and the human resources director within 15 days.

C. The annual merit evaluation form, the written request for appeal of the registrar of voters, the written notice of the committee's decision, and all supporting documentation shall be maintained in the official confidential personnel file of the registrar of voters on file in the Department of State Human Resources office.

D. A written explanation shall be given to any registrar of voters who does not receive any "excellent" rating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 41:759 (April 2015).

#### **§109. Merit Evaluations of the Chief Deputy and Confidential Assistant**

A. The parish registrar of voters shall perform the annual evaluation of the chief deputy and confidential assistant.

B. Annually, the criteria and procedure for the merit evaluation shall be determined by the Registrar of Voters Association. The association shall prepare written instructions and forms to be utilized for the evaluation. The forms and instructions shall be submitted to the registrars of voters for reviewing the chief deputy and confidential assistant's performance no later than November 1.

C. The parish registrar of voters shall be responsible for evaluating his or her chief deputy and confidential assistant. These evaluations shall be submitted to the Department of State Human Resources office no later than December 15 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:59, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008), amended LR 41:759 (April 2015).

Tom Schedler  
Secretary of State

1504#029

#### **RULE**

#### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

Louisiana Catch and Cook Program and Permit  
(LAC 76:VII.381)

The Department of Wildlife and Fisheries has established the Louisiana Catch and Cook Program. The program allows permitted retail food establishments to prepare certain recreational fish caught by properly licensed fisherman.



## **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

##### **Chapter 3. Saltwater Sports and Commercial Fishing**

###### **§381. Louisiana Catch and Cook Program and Permit**

A. The Department of Wildlife and Fisheries is authorized to establish the Louisiana Catch and Cook Program and permit pursuant to R.S. 56:317. Notwithstanding any provision of the state *Sanitary Code* or any other law or regulation to the contrary, it shall be lawful for a retail food establishment to receive and prepare any freshwater or saltwater recreational fish as defined in R.S. 56:8.

B. Any retail food establishment as defined in LAC 51:XXIII.101.A, is authorized to prepare any fish legally taken and possessed by a licensed recreational fisherman for consumption by that recreational fisherman or any person in his party. The retail food establishment must possess a Louisiana Catch and Cook Program permit issued by the department. Possession of a permit does not exempt the permittee from any other law or regulation.

C. Permittees will be required to abide by the following conditions that shall be enforced by the Department of Health and Hospitals, Office of Public Health.

1. The retail establishment shall complete, date, and have the recreational fisherman who brings the fish in for preparation sign an assumption of risk form. The completed, dated, and signed form shall be maintained at the establishment for a period of no less than 90 days. The establishment shall provide the completed forms to the state health officer upon request.

2. The retail food establishment shall receive only fish that have been cleaned, filleted, placed in clean, food-grade, single-service packaging, and properly refrigerated.

3. The retail food establishment shall inspect the fish for freshness and proper receiving temperature.

4. The fish shall be properly labeled with the date, time, and name of the recreational fisherman.

5. The retail food establishment shall store, prepare, and otherwise handle the fish separately from products being prepared for and served to the general public.

6. The retail food establishment shall store, prepare, and otherwise handle the fish in compliance with provisions of the state *Sanitary Code* (LAC 51, Part XXIII).

7. The retail food establishment shall prepare and serve the fish to the recreational fisherman or any person in his party within four hours of receipt of the fish.

8. Containers, preparation tables, cutting boards, utensils, and other food preparation equipment used to prepare and serve the fish shall be properly cleaned and sanitized in accordance with provisions of the state *Sanitary Code* (LAC 51, Part XXIII) prior to use preparing foods to serve to the general public.

9. The fish shall be served directly to the recreational fisherman or any person in his party immediately upon the completion of cooking and shall not be served to the general public.

D. Permits may be obtained at no cost, from the Department of Wildlife and Fisheries or any authorized method. The permit is valid for one calendar year, beginning on January 1 and expiring on December 31 of the same calendar year. The permit may be obtained at any time of the

year until November 15 for the current license year. A permit obtained on or after November 15 of the current license year shall be valid for the remainder of the current license year and expires on December 31 of the immediately following license year. The Department of Wildlife and Fisheries shall provide the names and locations of each participating retail food establishment to the Department of Health and Hospitals, Office of Public Health upon request.

E. Permits may be suspended or revoked by the Department of Wildlife and Fisheries for any violation of the rules and regulations of this program or on the written recommendation of the Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:317.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41:760 (April 2015).

Billy Broussard  
Chairman

1504#089

#### **RULE**

##### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

###### **Recreational Offshore Landing Permit (LAC 76:VII.377)**

The Wildlife and Fisheries Commission has amended a Rule, LAC 76:VII.377, modifying existing recreational offshore landing permit regulations by exempting minors under the age of 16. Changes to the Rule also add language that was not published in a previous Rule modification that allowed exemptions for passengers on a charter-for-hire trip. Authority for adoption of this Rule is included in R.S. 56:6(34).

## **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

##### **Chapter 3. Saltwater Sport and Commercial Fishery §377. Recreational Offshore Landing Permit**

A. Any person, except those persons under the age of 16 that are not normally required to obtain a license for saltwater fishing privileges, possessing any one of the following fish species or species groups on board a vessel taken from within or without Louisiana territorial waters shall be required to have obtained and have in their immediate possession a recreational offshore landing permit. Any person on a trip aboard a charter vessel, who pays a fee for that trip, is not required to have this permit, but the permit is required for the captain of that charter vessel. The recreational offshore landing permit shall be available for inspection by a duly authorized agent of the department:

1. highly migratory species:

a. tunas—bluefin, albacore, yellowfin, skipjack, bigeye, blackfin;

b. billfish—blue marlin, white marlin, sailfish and longbill spearfish;

c. swordfish;

2. reef fish species:

a. any species of snapper;

b. any species of amberjack;

- c. any species of grouper or hind;
- 3. pelagics:
  - a. any species of dolphinfish;
  - b. cobia;
  - c. wahoo.

B. Permits may be obtained at no cost, from the Department of Wildlife and Fisheries, or authorized method, by persons who hold any valid license authorizing the taking and possessing of saltwater species of fish. Permits shall be valid for the same duration as the annual license authorizing saltwater fishing privileges. For those licenses that do not have to be renewed every year, the permit must be renewed annually, and shall be valid for the same time period as annual licenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(34).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 38:3249 (December 2012), amended LR 40:94 (January 2014), LR 41:761 (April 2015).

Billy Broussard  
Chairman

1504#090

## **RULE**

### **Workforce Commission Plumbing Board**

#### **Water Supply Protection Specialists Recertification Requirements (LAC 46:LV.1003)**

The Louisiana State Plumbing Board (board), pursuant to R.S. 37:1366(I), which authorizes the board to establish and determine by rule minimum requirements relative to continuing professional development for the renewal or reinstatement of any license or special endorsement issued by the board, has amended the plumbing regulations, LAC 46:LV.1003, in accordance with the Administrative Procedure Act. This Rule allows the board to accept proof of attendance at a board-approved industry related

recertification program compliant with the guidelines of the American Society of Sanitary Engineers (ASSE) series 5000/5110 *Professional Qualification Standards* or its equivalent, effective upon final publication in the *Louisiana Register*.

## **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LV. Plumbers**

#### **Chapter 10. Continuing Professional Education Programs**

#### **§1003. Water Supply Protection Specialists Recertification Requirements**

A. Effective January 1, 2015, in addition to the yearly renewal of their endorsement, every three years all persons holding a water supply protection specialist endorsement issued by the Louisiana state Plumbing Board are required to show proof of attendance at a board-approved industry related recertification program compliant with the guidelines of the American Society of Sanitary Engineers (ASSE) series 5000/5110 *Professional Qualification Standards* or its equivalent as defined in §310.D. Such recertification shall satisfy the endorsee's obligation to maintain continuing professional education relative to a water supply protection specialist endorsement, but shall not diminish or affect endorsee's obligation to fulfill continuing professional education requirements for journeyman or master plumbing licenses or medical gas installer or verifier endorsements, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2071 (September 2004), amended LR 37:905 (March 2011), LR 37:2441 (August 2011), amended by the Workforce Commission, Plumbing Board, LR 41:762 (April 2015).

John Barker  
Executive Director

1504#031

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of Forestry

#### Prescribed Burning Complaints (LAC 7:XXXIX.913 and 914)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that pursuant to R.S. 3:17, the Department of Agriculture and Forestry ("department") intends to amend its rules regarding prescribed burning. R.S. 3:17(F), enacted by Act No. 590 of the 2014 Regular Session, provides that "persons who wish to complain about certain prescribed burns shall issue their complaints to the commissioner. The commissioner shall investigate such complaints and have the authority to suspend or revoke his authorization for the prescribed burn for persons found to be in violation of the prescribed burn requirements or rules and regulations promulgated pursuant to this Section." The proposed Rule sets forth a procedure for persons to file complaints regarding prescribed burns with the department and a procedure for the department to investigate and take action regarding the complaints, including the authority to suspend or revoke a prescribed burning certificate after an adjudicatory hearing conducted in accordance with the Administrative Procedure Act.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXXIX. Forestry

#### Chapter 9. Prescribed Burning

##### §913. Complaints and Investigation

A. Any person who wishes to file a complaint regarding an agricultural burn may do so by telephone or in writing. In order to file a complaint by telephone, persons must contact the department via the department's 24-hour telephone hotline. Complaints may also be made by filling out a department-approved complaint form available on the department's website, by mailing a written complaint to the department, or by sending electronic mail to [burncomplaints@ldaf.state.la.us](mailto:burncomplaints@ldaf.state.la.us).

B. A complaint shall, at a minimum, contain the following information:

1. the name, address and telephone number of the person making the complaint;
2. the address, location or geographic coordinates of the agricultural burn, including the name of the parish;
3. the date and time of the complaint; and
4. a detailed explanation of all conduct and/or conditions which form the basis of the complaint.

C. Upon receipt of a complaint, the department may:

1. conduct an investigation of the incident involved in the complaint; and
2. inform the burner against whom the complaint has been lodged of the complaint.

D. Upon completion of the investigation described in this section, the department shall notify the complainant and the burner of the results of the investigation.

E. The department, in its sole discretion, will determine whether educational materials should be provided to the burner or whether the actions complained of warrant referring the citizen's complaint to an adjudicatory hearing for the possible suspension or revocation of a prescribed burning certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21:670 (July 1995), amended LR 41:

#### §914. Suspension and Revocation of Prescribed Burning Certificate

A. In the event that the department determines that the practices and procedures utilized by a certified prescribed burn manager during one or more prescribed burns substantially deviates from accepted practices and procedures for prescribed burning in effect at the time of certification or at the time of the aforesaid prescribed burn or burns, the department shall conduct an adjudicatory hearing in accordance with the Administrative Procedure Act in order to determine whether to suspend or revoke the prescribed burning certificate.

B. All hearings conducted pursuant to this section shall be heard by a three person hearing panel appointed by the commissioner. The commissioner may appoint a hearing officer to conduct the hearing.

C. At the conclusion of the administrative hearing, the hearing panel may recommend that the certified prescribed burn manager's certificate be suspended or revoked. If the panel recommends the certificate be suspended or revoked, it may also recommend that the prescribed burn manager be eligible to have his certificate reinstated after a certain period of time. The hearing panel's recommendation shall be submitted to the commissioner for his determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 41:

#### Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

### Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### Small Business Statement

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

### Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Wade Dubea, State Forester, Department of Agriculture and Forestry, P.O. Box 631, Baton Rouge, LA 70821 and must be received no later than 4 p.m. on June 19, 2015. No preamble is available.

Mike Strain, DVM  
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Prescribed Burning Complaints

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to have a direct material effect on state or local governmental units as it clarifies existing rules. Pursuant to R.S. 3:17, as amended by Act No. 590 of the 2014 Regular Legislative Session, the proposed rule change clarifies the current procedure for citizens to file complaints with the department regarding prescribed burns. The commissioner shall investigate such complaints in order to determine whether the actions complained of warrant referring the citizen's complaint to an adjudicatory hearing for the possible suspension or revocation of a prescribed burning certificate. Upon the conclusion of an adjudicatory hearing, the commissioner may suspend or revoke a prescribed burning certificate for persons who are found to have conducted a prescribed burn which substantially deviates from accepted practices and procedures for prescribed burning in effect at the time of certification or at the time of the specific prescribed burn in question.

### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not anticipated to have a direct material effect on revenue collections of state or local governmental units.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is not anticipated to have a direct material effect on economic costs and/or an economic benefit to directly affected persons or non-governmental groups.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to have a direct material effect on competition and employment.

Dane Morgan  
Assistant Commissioner  
1504#095

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Civil Service Board of Ethics

Food and Drink Limit and  
Act 857 of 2014 Legislative Session  
(LAC 52:I.Chapters 13, 17, and 19)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to make amendments to the rules for the Board of Ethics to bring the rules into compliance with current statutory provisions and section 1115.1(C) of the *Code of Governmental Ethics* and to repeal certain Sections to the rules for the Board of Ethics to bring the rules into compliance with current statutory provisions in accordance with R.S. 42:1134(A)(3).

### Title 52 ETHICS

#### Part I. Board of Ethics

#### Chapter 13. Records and Reports

#### §1312. Statements Filed Pursuant to Section 1124.6 of the *Code of Governmental Ethics*

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 238 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:1463 (July 2010), repealed LR 41:

#### §1318. Statements Filed Pursuant to Section 1124 of the *Code of Governmental Ethics*

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:408 (March 2009), amended LR 36:233 (February 2010), repealed LR 41:

#### §1319. Statements Filed Pursuant to Section 1124.2 of the *Code of Governmental Ethics*

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:421 (March 2009), amended LR 36:262 (February 2010), repealed LR 41:

**§1320. Statements Filed Pursuant to Section 11242.1 of the Code of Governmental Ethics**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:434 (March 2009), amended LR 36:292 (February 2010), repealed LR 41:

**§1321. Statements Filed Pursuant to Section 1124.3 of the Code of Governmental Ethics**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:440 (March 2009), amended LR 36:301 (February 2010), repealed LR 41:

**§1322. Statements Filed Pursuant to Section 1124.5 of the Code of Governmental Ethics**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:301 (February 2010), repealed LR 41:

**Chapter 17. Code of Governmental Ethics**

**§1703. Food and Drink Limit**

A. In accordance with R.S. 42:1115.1(C), beginning on July 1, 2015, the limit for food, drink or refreshments provided in R.S. 42:1115.1(A) and (B) is \$60.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1115.1.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:304 (February 2010), amended LR 36:1466 (July 2010), LR 38:1951 (August 2012), LR 39:3062 (November 2013) LR 40:1678 (September 2014), amended LR 41:

**Chapter 19. Legislative Branch Lobbyist Disclosure Act**

**§1906. Personal Financial Disclosure Form**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:2673 (December 2004), repromulgated LR 31:620 (March 2005), repealed LR 41:

**Family Impact Statement**

The proposed Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

**Poverty Impact Statement**

The proposed Rule has no known impact on poverty, as described in R.S. 49:972.

**Small Business Statement**

The proposed Rule should not have any known or adverse impact on small business as described in R.S. 49:956.6

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

**Public Comments**

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, LA 70821, telephone (225) 219-5600, until 4:45 p.m. on May 10, 2015.

Kathleen M. Allen  
Ethics Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Food and Drink Limit and  
Act 857 of 2014 Legislative Session**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated impact to state or local government entities as a result of the proposed rule changes. The proposed rule applies the provisions of Act 857 of the 2014 Legislative Session, which requires campaign finance disclosure, personal financial disclosure forms and reports to be amended by joint approval of the Senate and Governmental Affairs Committee and the House and Governmental Affairs Committee. The proposed administrative rule also raises the monetary limit on the receipt of food and drink by public servants and public employees from \$58 to \$60 in FY 16.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no anticipated effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed action will affect all public employees and public servants by setting a monetary limit on the receipt of food and drink.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no anticipated effect on competition and employment.

Kristy Gary  
Deputy Ethic Administrator  
1504#026

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.303 and 519)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System*: §303, Transition from Fall 2013 to Spring 2016 (2014, 2015, and 2016 SPS Release); and §519, Inclusion of Schools. The proposed policy revisions extend the transition policies for school accountability by one year to ensure sufficient time to learn the higher expectations and to provide for a two-year

baseline associated with the new assessments. The revisions also address an unusual circumstance involving early graduates.

## **Title 28 EDUCATION**

### **Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System**

#### **Chapter 3. School Performance Score Component**

##### **§303. Transition from Fall 2013 to Spring 2016 (2014, 2015, and 2016 SPS Release)**

A. Schools shall receive an annual 2013 SPS using the 150-point scale, as approved for the 2012-13 school year and as described in Chapters 3-6 of this bulletin.

B.1. In order to provide for a two-year baseline associated with new assessments in English language arts and mathematics, the LDE shall ensure that the distribution of school letter grades remains constant throughout this transition by assigning school letter grades for the 2013-2014, 2014-2015, and 2015-2016 school years based on the distribution of school letter grades by school type (e.g., K-8 v. combination v. high school) from the 2012-2013 school year.

a. If schools generally decline in performance scores, then the distributions (K-8, combination and high school) shall remain the same as in 2012-13 so as not to punish schools during the transition.

b. Any school or district that maintains or improves its annual performance score as compared to the 2012-13 performance scores shall not experience a decrease in its letter grade. Thus, if schools generally improve in performance scores, then the distributions shall improve as they would in any other year.

c. If, in implementing consistent distributions of letter grades, more than one school of the same type (e.g., K-8 school, combination school, or high school) earns the same school performance score (i.e., they are “tied”), then all such schools shall be awarded the same letter grade. For example, if a school earning a school performance score of 84.9 in the 2014-2015 school year is awarded a letter grade of B, all other schools of the same type earning a school performance score of 84.9 in the 2014-2015 school year shall also receive a letter grade of B.

2. Prior to the creation of the transitional ninth grade, some schools were categorized as combination schools, rather than high schools, simply because they offered 8th grade courses to a select group of students ineligible for 9th grade. Such schools shall be classified as high schools and the 12-13 distributions shall be adjusted to reflect this shift.

C. By the fall of 2015, BESE shall determine, in consultation with the Accountability Commission, the timeline and benchmarks needed to gradually raise the standard for student proficiency such that the average student in a school or district with a letter grade of “A” achieves at least “mastery” (level 4) on state assessments no later than the 2024-2025 school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2442 (September 2013), amended LR 40:760 (April 2014), LR 40:1314 (July 2014), LR 41:

## **Chapter 5. Inclusion in Accountability**

### **§519. Inclusion of Schools**

A. All K-8 schools shall have a minimum of 40 testing units in any combination of LEAP, iLEAP, or LAA 1 assessments.

B. All 9-12 and combination schools shall have a minimum number of 40 units in any combination of graduation cohort membership and LEAP, iLEAP, LAA 1, or EOC assessments.

C. Each member of a cohort used to calculate a graduation index shall be counted as 4 units when determining the minimum number of units required calculating an SPS.

#### **D. Inclusion of Indices**

1. A school must have ten students in the graduation cohort to receive a the cohort graduation indices.

2. For schools with early graduates, an increasing grade configuration, and without cohort graduation members, ACT assessment scores shall be banked for the calculation of school performance scores until the accountability cycle associated with those early graduates, per cohort graduation policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:1512 (July 2005), LR 32:1022 (June 2006), LR 34:431 (March 2008), LR 36:1991 (September 2010), LR 38:3108 (December 2012), LR 40:2507 (December 2014), LR 41:

#### **Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2015, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The proposed policy revision will have no effect on costs or savings to state or local governmental units.  
The proposed policy revisions extend the transition policies for school accountability by one year to ensure sufficient time to learn the higher expectations and to provide for a two-year baseline associated with the new assessments. The revisions also address an unusual circumstance involving early graduates.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This policy will have no effect on revenue collections of state or local governmental units.

### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1504#039

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Board of Elementary and Secondary Education**

Bulletin 126—Charter Schools  
(LAC 28:CXXXIX.518, 1303, 1503, 1703, 2709, and 2801)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 126—Charter Schools*: §518, BESE Pre-Opening Procedures Following Approval; §1303, Extension Review; §1503, Charter Renewal Process and Timeline; §1703, Revocation Proceedings; §2709, Enrollment of Students, Lottery, and Waitlist; and §2801, Transportation Requirements. The proposed policy revisions set academic, financial, and organizational requirements that must be met before an existing Louisiana charter operator may open subsequent approved schools included in the original application of the operator; create transportation standards for BESE-authorized charter schools; and include technical edits and updates to timelines.

#### **Title 28**

#### **EDUCATION**

### **Part CXXXIX. Bulletin 126—Charter Schools**

#### **Chapter 5. Charter School Application and Approval Process**

#### **§518. BESE Pre-Opening Procedures Following Approval**

A. Following charter application approval by BESE, approved nonprofit corporations must complete pre-opening requirements developed by the department prior to executing a charter contract and prior to opening a school.

B. The department must certify completion of the pre-opening requirements prior to the opening of the school.

C. A charter operator may open additional schools included in its approved charter application if the academic, financial, and organizational performance requirements in this section are met prior to the operator entering pre-opening for the subsequent approved school.

1. Charter schools currently operated by the charter operator shall meet specific academic criteria as described within this Paragraph.

a. Schools currently operating under the oversight of the charter operator shall meet either of the following academic performance criteria:

i. an average school performance score equivalent to a letter grade of C, or higher, calculated in a

manner that correlates to the district performance score formula outlined in *Bulletin 111—Louisiana School, District, and State Accountability System*; or

ii. an average of five or more points of growth per year from the school's pre-assessment index, if available, for all schools awarded a T, D, or F letter grade.

b. If the charter operator contracts with a management organization, the state superintendent may consider the academic performance of all schools operating in Louisiana affiliated with the management organization in determining whether or not the charter operator is allowed to open a subsequent approved school.

c. The state superintendent may waive the academic performance criteria if likely new enrollees would otherwise predominantly be enrolled in schools performing at levels lower than or equivalent to the participating school.

2. The majority of the charter operator's schools have received a "meets expectations" designation in the most recent evaluation of financial performance according to the charter school performance compact.

3. The majority of the charter operator's schools have received a "meets expectations" designation in the most recent evaluation of organizational performance according to the charter school performance compact, and each school has no unresolved notices of concern or breach.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 37:870 (March 2011), amended LR 37:2385 (August 2011), LR 39:1432 (June 2013), LR 41:

## Chapter 13. Charter Term

### §1303. Extension Review

A. ...

B. Each type 2, type 4, and type 5 charter school's extension review shall be used to determine if the school will receive a one-year extension, as follows.

1. Contract Extension

a. Each charter school shall be reviewed based on academic, financial, and legal and contractual performance data collected by the Department of Education. If such performance data reveal that the charter school is achieving the following goals and objectives, the board shall extend the duration of the charter for a maximum initial term of five years.

i. For the 2015 and beyond extension processes, a charter school shall:

(a). meet or approach expectations on the most recent evaluation in financial performance according to the charter school performance compact and a financial risk assessment rating that has not been deemed to require "dialogue" as set forth in §1101.E; and

(b). have no violation of legal or contractual standards as defined in §1101.I.3; and

(c). meet one of the following student performance standards that aligns with the structure of the school.

(i). Turnaround schools, schools qualified to receive a letter grade of "T" per Bulletin 111, §1105, school has earned a letter grade of "D" or higher based on performance data from the school's third year of operation; or school has made an average of 5 or more points of growth per year of the charter contract (from the pre-assessment index to the last year of data).

(ii). Non-turnaround schools, school has earned a letter grade of "D" or higher based on performance data from the school's third year of operation.

(iii). Alternative charter schools, schools approved by the department to use an alternative charter school extension and renewal framework, school has met the standards for extension from an alternative charter school extension and renewal framework.

2. - 3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008), amended LR 37:2387 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 39:1435 (June 2013), LR 39:3065 (November 2013), LR 40:1322 (July 2014), LR 41:

## Chapter 15. Charter Renewal

### §1503. Charter Renewal Process and Timeline

A. ....

B. Student Performance

1. Each charter school is required to make demonstrable improvements in student performance over the term of its charter contract.

a. BESE will rely on data from the state's assessment and accountability program as objective and verifiable measures of student achievement and school performance. Student performance is the primary indicator of school quality; therefore, BESE will heavily factor each charter school's student performance data in all renewal decisions.

2. Consistent with the philosophy of rewarding strong performance and providing incentives for schools to strive for continual improvement, the renewal terms for BESE-authorized charter schools will be linked to each school's letter grade (based on the school's performance on the state assessment in the year prior to the renewal application) in accordance with the table that follows.

Maximum Charter Renewal Terms	
Letter Grades	Maximum Renewal Term
F	3 years
D	3 Years
C	6 Years
B	7 Years
A	10 years

3. A charter school in its initial term where fewer than 50 percent of its enrolled grades are testable under state accountability will be eligible for a renewal term of three years.

4. For initial renewals during the 2015 and beyond renewal processes, a BESE-authorized charter school receiving a letter grade of "F" in the prior academic year will not be eligible for renewal, unless one of these conditions are met:

a. a charter school that by contract serves a unique student population where an alternate evaluation tool, including a BESE-approved alternative charter school extension and renewal framework, has been established between the charter operator and the board may be renewed for a term not to exceed five years;

b. a turnaround charter school that qualified to receive a letter grade of "T" per Bulletin 111, §1105, that has



made an average of five or more points of growth per year of the charter contract (from the pre-assessment index to the last year of data).

5. For subsequent renewals during the 2015 and beyond renewal processes, a BESE-authorized charter school receiving a letter grade of “D” or “F” in the prior academic year will not be eligible for renewal, unless one of these conditions are met:

a. a charter school that by contract serves a unique student population where an alternate evaluation tool, including a BESE-approved alternative charter school extension and renewal framework, has been established between the charter operator and the board may be renewed for a term not to exceed five years;

b. a turnaround charter school that qualified to receive a letter grade of “T” per Bulletin 111, §1105, that has made an average of 5 or more points of assessment index growth per year of the charter contract.

6. If, in the state superintendent’s judgment, the non-renewal of a charter school that does not meet the criteria for renewal in its initial or subsequent charter term would likely require many students to attend lower performing schools, and the state superintendent recommends its renewal, the charter may be renewed for a term not to exceed three years. Prior to recommending such renewal, the state superintendent must demonstrate that efforts to find a new, high-quality operator for the school were unsuccessful.

C. - F.4. ...

#### G. Automatic Renewal of Charter Schools

1. A charter school which has met or exceeded for the three preceding school years the benchmarks established for it in accordance with the school and district accountability system, has demonstrated growth in student academic achievement for the three proceeding schools years, and has had no significant audit findings during the term of the charter agreement shall be deemed a high-performing school, and such school's charter shall be automatically renewed.

2. A charter school that meets the following conditions shall be automatically renewed and shall be exempted from the renewal process requirements listed in this Section, as appropriate:

- a. has received a letter grade of A or B;
- b. has demonstrated growth in student academic achievement as measured by an increasing school performance score over the three preceding school years;
- c. has received a “meets expectations” designation in its most recent evaluation in organizational performance according to the charter school performance compact;
- d. has received a “meets expectations” designation in its most recent evaluation in financial performance according to the charter school performance compact; and
- e. has no outstanding notices of concern or breach.

3. The automatic renewal term shall be in line with the terms specified in Paragraph B.2 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:479 (March 2010), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:

## Chapter 17. Revocation

### §1703. Revocation Proceedings

A. - A.4. ...

B. Revocation Hearing for BESE-Authorized Charter Schools

1. The charter operator shall have an opportunity for a hearing prior to the revocation of its charter.

2. All charter school revocation hearings shall be heard by the School Improvement and Turnaround Committee of BESE.

3. Following the Department of Education's recommendation to revoke a charter, BESE shall determine if it will commence a revocation proceeding.

C. - G.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1368 (July 2008), amended LR 37:872 (March 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 39:3067 (November 2013), LR 41:

## Chapter 27. Charter School Recruitment and Enrollment

### §2709. Enrollment of Students, Lottery, and Waitlist

A. - I. ...

J. Type 5 charter schools transferred to the RSD pursuant to R.S. 17:10.5 and R.S. 17:10.7 and type 3B charter schools shall comply with any unified enrollment system established by the RSD for the parish or region where the charter school is located. The RSD may create any policies and procedures to implement a unified enrollment system not prohibited by this Chapter, and may conduct one or more central lotteries to enroll students at participating schools, and enroll students applying or requesting transfers after the application period has ended.

1. Upon request of a charter operator, the department shall allow an enrollment preference for students matriculating into eighth grade or below between two BESE-authorized charter schools operated by the same charter operator.

2. In addition, the Department of Education shall manage a pilot program wherein the department shall allow an enrollment preference for those students matriculating or transferring into ninth grade or above between eligible BESE-authorized charter schools for a limited percentage of the seats in the charter school, to be determined by the department. The department shall develop an application process for participation in the pilot program which shall evaluate factors including the applying charter schools’ past demonstration of success in preparing at-risk and low-performing students for college and/or career, and the submission of an innovative proposal to utilize the enrollment preference to further this success. The department shall collect relevant data on the pilot program in order to prepare a report to be presented by the state superintendent to BESE no later than January, at which time BESE shall consider the continuation of the pilot program based on the results of the report. The report shall include data and information including, but not limited to:

- a. the demographic and academic backgrounds of students utilizing the preference;
- b. the number and percentage of students who matriculated or transferred into participating schools;

c. the number and percentage of students who were admitted to the school utilizing the enrollment preference; and

d. the number and percentage of students attempting to enroll or transfer in the charter school who were ineligible to utilize the enrollment preference.

K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012), amended LR 38:3120 (December 2012), LR 39:1021 (April 2013), LR 39:1437 (June 2013), LR 39:3252 (December 2013), LR 41:

## **Chapter 28. Transportation**

### **§2801. Transportation Requirements**

A. Each operator of a BESE authorized charter school shall offer free daily transportation to and from school to any student meeting both of the following conditions:

1. the student resides more than one mile from the school where the student is enrolled;

2. the student resides within the parish or local school district in which the school is physically located.

B. Charter operators shall submit school transportation plans to the LDE to ensure compliance with applicable laws and policies. The state superintendent shall set forth the process for transportation plan submission.

C. Charter operators having BESE authorized charter schools in operation during the 2015-2016 school year shall offer transportation to all eligible students no later than the beginning of the 2018-2019 school year. Charter operators having BESE authorized charter schools that begin operation in the 2016-2017 school year shall offer transportation upon opening.

D. The LDE shall develop a waiver process to exempt from this requirement any type 2 charter schools having a unique mission to serve students with exceptionalities, virtual schools, or other schools upon which this requirement would create a substantial financial burden. Such process shall be set forth the state superintendent, who shall update the board on any waivers granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:158, and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 41:

### **Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2015, to Shan N. Davis, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 126—Charter Schools**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy revision may result in costs to BESE-authorized charter schools. If existing schools are not currently providing transportation for students, they will now be required to do so no later than the 2018-2019 school year; new charters authorized beginning in 2016-2017 shall provide transportation upon opening. The estimated average cost per student is based on existing transportation costs for traditional districts and charters currently providing transportation. For the 2013-14 SY, the average state-authorized charter transportation cost was approximately \$700 per student. The average cost across all LEAS was \$678 per student.

The proposed policy revisions set academic, financial, and organizational requirements that must be met before a Louisiana charter operator may open additional schools included in its approved original charter application; create transportation standards for BESE-authorized charter schools; and include technical edits and updates to timelines.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There will be a savings for parents of students attending BESE-authorized charter schools who are currently providing transportation. It is not possible to estimate the economic benefit.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1504#040

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 130—Regulations for the Evaluation and  
Assessment of School Personnel  
(LAC 28:CXLVII.Chapter 3 and 701)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*: §105, Framework for LEA Personnel Evaluation Programs; §301, Overview of Personnel Evaluation; §303, Measures of Growth in Student Learning—Value-Added Model; §305, Measures of Growth in Student Learning—Learning Targets; §309, Standards of Effectiveness; and §701, Annual Summary Reporting Format. The proposed policy revisions include changes to the Compass tool for teacher and leader evaluation as recommended by a subcommittee of the accountability commission. The subcommittee was formed as directed by Act 240 of the 2014 regular legislative session.

**Title 28**

**EDUCATION**

**Part CXLVII. Bulletin 130—Regulations for the  
Evaluation and Assessment of School Personnel**

**Chapter 3. Personnel Evaluation**

**§301. Overview of Personnel Evaluation**

A. Personnel evaluation for teachers and administrators shall be composed of two parts. Fifty percent of the evaluation shall be composed of applicable measure(s) of growth in student learning. The remaining 50 percent shall be based upon a qualitative assessment of teacher or administrator performance.

1. For teachers, the 50 percent of the evaluation based upon growth in student learning shall measure the growth of their students using data from the value-added model and/or student learning targets, according to guidelines provided by the department. For administrators, the 50 percent of the evaluation based upon growth in student learning shall incorporate a school-wide measure of growth and goal setting for principals is subject to §305.D of this bulletin.

2. The 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include a minimum of two observations or site visits. This portion of the evaluation may include additional evaluative evidence, such as walk-through observation data and evaluation of written work products.

B. The combination of the applicable measure of growth in student learning and the qualitative assessment of performance shall result in a composite score used to distinguish levels of overall effectiveness for teachers and administrators.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1215 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:

**§303. Measures of Growth in Student  
Learning—Value-Added Model**

A. - F. ...

G. During the transition to new standards and assessments and as a new two-year baseline is set, value-added data will not be available in 2013-2014, 2014-2015, or 2015-2016. During this time, the department shall provide transitional student growth data that may be used as a measure of student growth, at the evaluator's discretion. LEAs may define local rules pertaining to the use of such data.

H. When assigning a final student growth score, the administrator may adjust the value-added rating by plus or minus one rating level, based on the teacher's student learning target performance (e.g., the overall student growth rating may be a 2.0 (effective: emerging) or 4.0 (highly effective) if the value-added rating is 3.0 (effective: proficient)).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012), amended LR 38:3123 (December 2012), LR 39:1273 (May 2013), LR 40:761 (April 2014), LR 41:

### §305. Measures of Growth in Student Learning—Learning Targets

A. The department shall expand the value-added model, as new state assessments become available.

B. For teachers and administrators, progress towards pre-determined student learning targets, as measured by state-approved common assessments, where available, shall inform the student growth component of the evaluation. Student learning targets shall include goals which express an expectation of growth in student achievement over a given period of time, as well as common measures for assessing attainment of those goals, such as an identified assessment and/or a body of evidence.

C. Teachers. A minimum of two student-learning targets shall be identified for each teacher. The department shall provide an evaluative tool for evaluators to use in assessing the quality and attainment of student learning targets.

1. State-approved common assessments shall be used as part of the body of evidence measuring students' attainment of learning targets, where available.

2. Where no state-approved common assessments are available, evaluatees and evaluators shall decide upon the appropriate assessment or assessments to measure students' attainment of learning targets.

3. LEAs may define consistent student learning targets across schools and classrooms for teachers with similar assignments, provided that they allow for ample flexibility to address the specific needs of students in each classroom.

D. Principals and Administrators: A minimum of two student learning targets shall be identified for each administrator.

1. For principals, the LDE shall provide recommended targets to use in assessing the quality and attainment of both student learning targets, which will be based upon a review of "similar" schools. The LDE will annually publish the methodology for defining "similar" schools.

2. For principals, at least one learning target shall be based on overall school performance improvement in the current school year, as measured by the school performance score.

3. For principals, at least one learning target shall be based on growth in a component (e.g., ELA or math improvement) of school performance score.

4. Principals at schools with special populations (e.g. alternative schools) or those that do not have grades with standardized testing and available value-added data (e.g., K-2 schools) may define learning targets based on LDE guidance.

E. The department shall provide annual updates to LEAs relating to:

1. the expansion of state-standardized testing and the availability of value-added data, as applicable;

2. the expansion of state-approved common assessments to be used to build to bodies of evidence for student learning where the value-added model is not available; and

3. the revision of state-approved tools to be used in evaluating student learning targets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012),

amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:

### §309. Standards of Effectiveness

A. Teachers and administrators shall receive a final composite score on annual evaluations to determine their effectiveness rating for that academic year.

1. The 50 percent of evaluations that is based on student growth will be represented by a sub-score between 1.0 and 4.0.

2. The 50 percent of evaluations that is based on a qualitative assessment of performance will also be represented by a sub-score between 1.0 and 4.0.

3. The final composite score for teachers and administrators shall be the average of the two sub-scores and shall be represented as a score between 1.0 and 4.0.

B. The composite score ranges defining ineffective, effective (emerging or proficient) and highly effective performance shall be as follows.

Effectiveness Rating	Composite Score Range
Ineffective	$x < 1.5$
Effective: Emerging	$1.5 \leq x < 2.5$
Effective: Proficient	$2.5 \leq x < 3.5$
Highly Effective	$3.5 \leq x$

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1217 (May 2012), amended LR 38:2360 (September 2012), LR 41:

### Chapter 7. Reporting and Monitoring

#### §701. Annual Summary Reporting Format

A. - A.6. ...

B. The department shall annually report on the performance of administrators and teachers. Such reporting and monitoring shall include, but not be limited to, the following:

1. the percentage and number, where available, of administrators and teachers rated as highly effective, effective: proficient, effective: emerging, and ineffective;

2. the percentage and number, where available, of teachers whose student growth ratings are increased or decreased, per §303.H of this bulletin, relative to the value-added model rating; and

3. information on principal learning targets relative to those recommended by the LDE (e.g., percentage and number of principal learning targets that are above, at, or below the LDE recommended targets).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2253 (October 2010), amended LR 38:1220 (May 2012), LR 38:2361 (September 2012), LR 39:1274 (May 2013), LR 41:

#### Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2015, to Shan N. Davis,

Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy revision could increase expenditures for local school systems if there is an increase in the number of teachers rated "effective". Teachers rated "ineffective" are not eligible for salary increases for a year following the evaluation. The amount of any increase will be determined by the number of teachers who otherwise would have been rated ineffective, their salary base, and the amount of any salary increases or performance bonuses. However based on the 2013-2014 Compass Teacher Results, only 2 percent of teachers statewide were rated "ineffective". As such, any potential increases are not likely to be significant.

The proposed policy revisions extend by one year transition policies for value-added data; revise provisions for principal goal setting; remove the override provision requiring that an educator who is "ineffective" in either student growth or the qualitative component of the evaluation, shall be rated "ineffective"; and revise provisions for the determination of the final ratings when value-added data is available.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Teachers who would otherwise have been rated "ineffective" could potentially benefit from salary increases or performance bonuses as a result of the changes.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1504#041

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Board of Elementary and Secondary Education**

Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.101, 103, and Chapter 3)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement *Bulletin 139—Louisiana Child Care and Development Fund Programs*, required by Act 868 of the 2014 Regular Legislative Session. This bulletin provides policy concerning the administration of the Child Care and Development Fund programs, and takes effect July 1, 2015.

**Title 28**  
**EDUCATION**

**Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs**

**Chapter 1. Child Care Assistance Program**

**§101. Authority**

A. The Louisiana Child Care Assistance Program is established pursuant to the Child Care and Development Block Grant Act of 2014 (CCDBG) and administered by the Louisiana Department of Education (department) under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 9858, 45 CFR Parts 98 and 99 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

**§103. Definitions**

*BESE*—Board of Elementary and Secondary Education.

*BESE Bulletin 136*—Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years.

*BESE Bulletin 137*—Louisiana Early Learning Center Licensing Regulations.

*Child Care Resource and Referral (CCR and R)*—a state and/or local organization with whom the department has contracted to provide services to families, early childhood professionals, and communities statewide.

*Department*—Louisiana Department of Education.

*Early Learning Center*—any child day care center, early head start center, head start center, or stand-alone prekindergarten program that is not attached to a school.

1. *Type I Early Learning Center*—an early learning center that is owned or operated by a church or religious organization that is qualified as a tax exempt organization under §501(c) of the *Internal Revenue Code* and that receives no state or federal funds directly or indirectly from any source.

2. *Type II Early Learning Center*—an early learning center that either receives no state or federal funds directly or indirectly from any source or whose only source of state or federal funds is from U.S. Department of Agriculture's food and nutrition programs.

3. *Type III Early Learning Center*—an early learning center that directly or indirectly receives state or federal funds from any source other than the federal food and nutrition programs.

*Louisiana Pathways Child Care Career Development System (LA Pathways)*—the state practitioner registry maintained by the department or its contractor. LA pathways registers child care directors and staff according to requirements based on training and education, experience, and professional activities, as approved by the department. Categories are established for child care staff, child care assistant teacher, child care teacher, child care assistant director and child care director.

*Quality Start Child Care Rating System*—system designed to assess the level of quality of early care and education programs serving birth through age five, communicate the level of quality, and support improvements of type III early learning centers.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

**Chapter 3. Quality Start Child Care Rating System**

**§301. Authority**

A. The quality start child care rating system is established and administered by the department under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

**§303. Definitions**

*Approved Courses*—courses that are deemed approved by the department.

*Assistant Directors*—must be on site for a minimum of 20 hours per week for centers with an enrollment of 101 or more.

*Assistant Teachers*—any staff who cares for children in a classroom setting who can be assessed using the ITERS-R/ECERS-R and works at least 16 hours per week in the center.

*Child Development Associate (CDA) Credential*—a nationally recognized credential which can be used to meet staff qualification requirements.

*Director*—an administrator who meets the director qualifications as outlined in BESE Bulletin 137, §1709 and is on site a minimum of 30 hours per week during operating hours when children are present.

*Early Childhood Environment Rating Scale-Revised (ECERS-R)*—a research-based assessment tool that measures environmental indicators of quality in preschool classrooms with children ages 2.5-5 years of age.

*Environment Rating Scales (ERS)*—the assessment tools developed at Frank Porter Graham Child Development Institute at the University of North Carolina that measure environmental indicators of quality. They include the infant toddler environment rating scale-revised (ITERS-R) and the early childhood environment rating scale-revised (ECERS-R), as well as the school age care environment rating scale (SACERS) for school age programs, and the family child care environment rating scale-revised (FCCERS-R) for family child care homes. Only the ITERS-R/ECERS-R apply for purposes of the quality start child care rating system at this time.

*Group*—those children who are assigned for most of the day to a specific teacher and who occupy an individual classroom or well defined space that prevents intermingling of children from different groups within a larger group or area.

*Infant Toddler Environment Rating Scale-Revised (ITERS-R)*—a research-based assessment tool that measures environmental indicators of quality in preschool classrooms with children 0-2.5 years of age.

*Lead Teacher*—a teacher who has primary responsibility for a designated classroom that can be assessed using the ITERS-R/ECERS-R, including planning and supervision, and spends at least 25 hours a week in that classroom. All classrooms must have a lead teacher.

*Quality Start Child Care Rating System Points*—points given in the program, staff qualifications, administration practices, and family and community involvement areas. All items within a point must be verified to receive credit. The total points earned determine the star award at star rating three, four, and five.

*Service Period*—the months within the calendar quarter for which a child received care.

*Social Emotional Subscales of the Environment Rating Scales*—a subscale of the ECERS-R and ITERS-R generated by the scores earned on the language-reasoning, interaction and program structure subscales of the ECERS-R and the listening and talking, interaction and program structure subscales of the ITERS-R. This new subscale score will be used to determine the ERS score for program points 1-4.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

### **§305. Quality Start Child Care Rating System Requirements**

A. The quality start child care rating system is designed to assess the level of quality of early care and education for programs serving birth through age five, communicate the level of quality, and support improvements of type III early learning centers.

1. The quality start child care rating system consists of five star ratings that can be earned by a licensed type III early learning center, uses licensing as the foundation, and has four star ratings above Louisiana's type III early learning center licensing standards.

2. The system components (administration practices, family and community involvement, program, and staff qualifications) have indicators that must be achieved to earn the star rating.

3. The state superintendent of education (state superintendent), in specific instances, may waive compliance with a requirement if it is determined that the economic or adverse impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or children are not imperiled. If it is determined that the facility or individual is meeting or exceeding the intent of a requirement, the requirement may be deemed to be met. The decision to grant or deny a waiver rests with the sole discretion of the state superintendent.

B. One Star. To participate at the one-star level, a type III early learning center shall have a valid type III early learning center license and comply with all laws, regulations and minimum standards applicable to type III early learning centers as set forth in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*.

C. Two Star. To earn a two-star award, a type III early learning center must meet all the standards for a one star, have been in operation for six months, and meet the following:

1. administration practices:
  - a. written personnel policies including:
    - i. operational hours;
    - ii. dress code;
    - iii. use of telephone; and
    - iv. schedule;
  - b. job descriptions that include a list of qualifications on file and provided to all staff;
  - c. provide one staff benefit from the list of options below for all full-time staff. Staff benefit options:
    - i. employee health insurance or comparable health benefits;
    - ii. paid annual leave;
    - iii. paid sick leave;

- iv. paid holidays;
    - v. child care benefit/discount;
    - vi. bonus based on merit/achievement or education;
    - vii. retirement compensation;
    - viii. annual increments based on merit;
    - ix. tuition reimbursement and other related educational expenses such as books, travel, fees, substitutes;
    - x. differential shift pay;
    - xi. flextime;
    - xii. pay professional association membership fee;
  2. family and community involvement:
    - a. parent provided pre-enrollment visit and center tour;
    - b. give every parent enrolling a child a list of community resources including, but not limited to, LaCHIP, Medicaid, child care assistance, housing assistance, SNAP assistance and information on a child's medical home;
  3. program:
    - a. make four of the following activity areas available daily:
      - i. art and creative play;
      - ii. children's books;
      - iii. blocks and block building;
      - iv. manipulatives; and
      - v. family living and dramatic play;
    - b. complete a self-assessment of the center's program and develop a center improvement plan;
  4. staff qualifications:
    - a. directors and teachers must join and maintain a current record with the Louisiana pathways child care career development system. Directors must complete three hours of introduction to environment rating scale (ERS) training;
    - b. director (on site):
      - i. three semester hour credits in care of young children or child development; and
      - ii. three semester hour credits in administration; and
      - iii. one year of experience in teaching young children in an early childhood program;
    - c. assistant director:
      - i. three semester hour credits in the care of young children or child development;
    - d. teacher—75 percent of lead teachers must meet one of the following:
      - i. complete three semester hour credits course in the care of young children or child development from a list of approved courses or enroll in the course and complete the course within one year of employment.

D. Point standards for type III early learning centers seeking three star rating, four star rating, and five star ratings.

1. To achieve a higher rating, a type III early learning center must meet all requirements of the two star rating and earn points in program and staff qualifications by meeting the requirements listed below. At least one point must be earned in both program and staff qualifications. The quality point referenced in Subparagraph 3.c may also be earned. The total number of points will determine the star rating awarded to the center:

Total Number of Points	Star Rating
3-5 points	Three Stars
6-9 points	Four Stars
10-11 points	Five Stars

- a. program:
  - i. criteria for one point:
    - (a). an average of 3.75 on the designated social-emotional subscale of the environment rating scale (ERS), with no one classroom score lower than 3.0 on the subscale;
  - ii. criteria for two points:
    - (a). an average of 4.0 on the designated social-emotional subscale of the ERS with no one classroom score lower than 3.0 on the subscale;
  - iii. criteria for three points:
    - (a). an average of 4.25 on the designated social-emotional subscale of the ERS with no one classroom score lower than 3.25 on the subscale;
    - (b). staff: child ratio and group size:
      - (i). 0-12 months 1:4, 8;
      - (ii). 13-24 months 1:6, 12;
      - (iii). 25-36 months 1:8, 16;
      - (iv). 3 years 1:10, 20;
      - (v). 4 years 1:12, 24;
      - (vi). 5 years 1:15, 30;
    - (c). written transition procedures for children moving within a program or to other programs or beginning school;
  - iv. criteria for four points:
    - (a). an average of 4.5 on the designated social-emotional subscale of the ERS with no one classroom score lower than 3.5 on the overall ERS;
    - (b). complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources;
    - (c). staff: child ratio and group size:
      - (i). 0-12 months 1:4, 8;
      - (ii). 13-24 months 1:6, 12;
      - (iii). 25-36 months 1:8, 16;
      - (iv). 3 years 1:10, 20;
      - (v). 4 years 1:12, 24;
      - (vi). 5 years 1:15, 30;
    - (d). written transition procedures for children moving within a program or to other programs or beginning school;
  - v. criteria for five points:
    - (a). an average of 5.0 on the overall ERS, with no one classroom score lower than 4.0;
    - (b). complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources;
    - (c). provide a plan for continuity of care for all children 0-36 months of age;
    - (d). implementation of Louisiana's standards for early childhood care and education programs serving children birth-five years found in BESE *Bulletin 136—Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;
    - (e). staff: child ratio and group size:

- (i). 0-24 months 1:4, 8;
  - (ii). 2 years 1:6, 12;
  - (iii). 3 years 1:8, 16;
  - (iv). 4 years 1:10, 20;
  - (v). 5 years 1:10, 20;
- b. staff qualifications:
  - i. criteria for one point:
    - (a). directors and all lead teachers complete training in Louisiana's standards for early childhood care and education programs serving children birth-five years found in BESE *Bulletin 136—Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;
    - (b). director (on site):
      - (i). six semester hour credits in the care of young children or child development; and
      - (ii). three semester hour credits in administrative coursework; and
      - (iii). one year experience teaching young children in an early childhood program;
    - (c). assistant director:
      - (i). three semester hour credits in the care of young children or child development;
    - (d). lead teacher:
      - (i). all of lead teachers must complete three semester hour credits in the care of young children or child development from a list of approved courses or enroll in the course and complete the course within one year of employment;
    - (e). assistant teacher:
      - (i). fifty percent of assistant teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development and complete the course within one year of employment;
  - ii. criteria for two points:
    - (a). directors and all lead teachers complete training in Louisiana's standards for early childhood care and education programs serving children birth-five years found in BESE *Bulletin 136—Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;
    - (b). director:
      - (i). nine semester hour credits in the care of young children or child development; and
      - (ii). three semester hour credits in administrative coursework; and
      - (iii). one year of teaching experience and one year teaching or administrative experience in an early childhood program;
    - (c). assistant director:
      - (i). three semester hour credits in the care of young children or child development; and
      - (ii). three semester hour credits in administrative coursework; and
      - (iii). one year experience in teaching young children in an early childhood program;
    - (d). lead teacher:
      - (i). seventy-five percent of lead teachers must have completed six semester hour credits in the care of young children or child development from a list of approved courses or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the



care of young children, child development or related coursework and complete the course within one year of employment; and

(ii). one year full-time experience in an early childhood setting;

(e). assistant teacher:

(i). fifty percent of assistant teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development and complete the course within one year of employment;

iii. criteria for three points:

(a). directors and all teachers complete training in Louisiana's standards for early childhood care and education programs serving children birth-five years found in *BESE Bulletin 136—Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;

(b). director:

(i). twelve semester hour credits in the care of young children or child development; and

(ii). six semester hour credits of administrative coursework; and

(iii). three years experience in an early childhood setting as follows: At least one year of teaching experience and at least one year of administrative experience and one year of either teaching or administrative experience;

(c). assistant director:

(i). three semester hour credits in the care of young children or child development; and

(ii). three semester hour credits in administrative coursework; and

(iii). one year experience in teaching young children in an early childhood program;

(d). lead teacher:

(i). seventy-five percent of lead teachers must have completed nine semester hour credits in the care of young children or child development from a list of approved courses or have completed six semester hour credits in the care of young children, child development or related coursework and complete the course within one year of employment; and

(ii). one year full-time experience in an early childhood setting;

(e). assistant teacher:

(i). fifty percent of assistant teachers must have completed three semester hour credits in the care of young children or child development;

iv. criteria for four points:

(a). directors and all teachers complete training in Louisiana's standards for early childhood care and education programs serving children birth-five years found in *BESE Bulletin 136—Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;

(b). directors:

(i). fifteen semester hour credits in the care of young children or child development; and

(ii). six semester hour credits of administrative coursework; and

(iii). four years experience in an early childhood setting as follows: At least one year of teaching

experience and at least one year of administrative experience and two years of either teaching or administrative experience;

(c). assistant directors:

(i). three semester hour credits in the care of young children or child development; and

(ii). three semester hour credits in administrative coursework; and

(iii). one year experience in teaching young children in an early childhood program;

(d). lead teachers:

(i). seventy-five percent of lead teachers must have completed 12 semester hour credits in the care of young children or child development from a list of approved courses or have completed nine semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework and complete the course within one year of employment; and

(ii). two years full-time experience in an early childhood setting;

(e). assistant teachers:

(i). all assistant teachers must have completed three semester hour credits in the care of young children or child development;

v. criteria for five points:

(a). directors and all teachers complete training in Louisiana's standards for early childhood care and education programs serving children birth-five years found in *BESE Bulletin 136—Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;

(b). director:

(i). associate's degree in the care of young children, child development or related field, with specific coursework in infant-toddler care, and the care of exceptional children or equivalent such as director III LA pathways; and

(ii). six semester hour credits of administrative coursework and five years experience in an early childhood setting as follows: at least one year of teaching experience and at least one year of administrative experience, and three years of either teaching or administrative experience;

(c). assistant director:

(i). six semester hour credits in the care of young children or child development; and

(ii). three semester hour credits in administration; and

(iii). one year experience in teaching young children in an early childhood program;

(d). lead teacher:

(i). all lead teachers must have six semester hour credits in the care of young children or child development from a list of approved courses; and

(ii). seventy-five percent of lead teachers must have completed 15 semester hour credits in the care of young children or child development from a list of approved courses or have completed 12 semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related

coursework and complete the course within one year of employment; and

(iii). two years full-time experience in an early childhood setting for all teachers;

(e). assistant teachers:

(i). all assistant teachers must have completed six semester hour credits in the care of young children or child development or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework and complete the course within one year of employment;

c. one additional quality point can be earned by meeting additional requirements in both the administration practices and the family and community involvement areas:

i. administration practices. Meet three requirements below:

(a). provide four of the benefits from the list of options below for all full-time staff;

(b). include grievance procedure and a professional conduct code for staff in written personnel policies;

(c). pay scale based on education, experience, responsibilities and merit;

(d). provide training to staff on cultural sensitivity;

(e). written parent and staff confidentiality policy and provide training to staff;

ii. family and community involvement. Meet four requirements below:

(a). director or assistant director participates annually in at least two director's meetings provided by the resource and referral agency;

(b). provide a complaint process for parents;

(c). offer opportunity for a formal parent/teacher conference meeting annually;

(d). provide an expanded list of local community resources to parents annually including, but not limited to, LaCHIP, Medicaid, child care assistance, housing assistance, snap assistance and information on a child's medical home;

(e). parent advisory council meets annually to review policies, procedures and parent handbook;

(f). one group meeting per year offered to all families;

(g). one parent education workshop offered per year by center or other agency.

E. Substitutions. The following reference program criteria and staff qualifications in this Section.

1. Substitutions for Credits in the Care of Young Children

a. The following may be substituted to meet this requirement of three semester hour credits in the care of young children or child development:

i. a current CDA or have approved high school child development courses;

ii. have five years full-time experience in an early childhood program; or

iii. have completed a child care assistant teacher 1 LA pathways classroom certificate.

b. The following may be used to meet the requirement of up to six semester hour credits in the care of young children or child development:

i. current CDA; or

ii. have completed a child care assistant teacher 2 LA pathways classroom certificate.

c. An individual may use the above substitutions to meet the requirements for a maximum of six semester hour credits.

2. The following may be substituted to meet the requirement for three semester hour credits in administration:

a. LA pathways administrator certificate;

b. national administrator credential (NAC); or

c. three years experience in administration or a combination of one year in administration experience and four years in teaching young children in an early childhood program.

NOTE: For Director Qualification: Experience in teaching young children or administration may only be substituted one time. At the next rating review, the necessary educational requirement (credits in the care of young children or child development or credits in administration) must be met.

3. For the purpose of this document, the designated social-emotional subscale of the ERS is defined as consisting of the following subscales:

a. ITERS-R—listening and talking, interaction and program structure; and

b. ECERS-R—language-reasoning, interaction and program structure.

4. Staff benefits options:

a. employee health insurance or comparable health benefits;

b. paid annual leave; paid sick leave; paid holiday;

c. child care benefit/discount;

d. bonus based on merit/achievement or education;

e. retirement compensation;

f. annual increments based on merit;

g. tuition reimbursement and other related educational expenses such as books, travel, fees, substitutes; and

h. differential shift pay, flextime, paid professional association fee.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

### **§307. Participation**

A. A type III early learning center will complete the application to participate in the quality start child care rating system at one star. If awarded, this will establish the center's initial year in the system.

B. Centers with two to five stars may submit an application for a star(s) six months after the date of award of the current rating or denial of an award. A verification visit will be conducted by the department prior to the award of two or more stars.

C. Quality ratings earned prior to January 1, 2014 will be valid for two years from the date of the star rating award as long as the center continues to qualify for the star rating. Quality ratings earned by type III early learning centers on or after January 1, 2014, shall expire June 30, 2017. Quality ratings earned by type I and type II early learning centers on or after January 1, 2014 shall expire on December 31, 2015. A rating review, which may be a visit or verification of documentation, may be conducted on a percentage of participating centers to ensure continued compliance.

D. Centers that have achieved a star rating may have their rating reviewed and modified, if at any time it becomes known to the department or the department receives information from the center that the type III early learning center no longer meets standards for the center's current star rating award.

E. Centers that have achieved a star rating will have their rating revoked if the child care license is revoked or not renewed.

F. Centers that have achieved a star rating may have their rating revoked, or centers applying may be denied, if it is determined by the department that false or misleading statements or documents have been submitted or misrepresented or relevant facts have been concealed or withheld in order to qualify or maintain a star(s) in the quality start child care rating system or to obtain the school readiness tax credit (SRTC).

G. The provider must reimburse the department for all ineligible benefits received.

H. Participation in the quality start child care rating system is voluntary. There are no administrative appeal rights for providers whose participation is denied or terminated.

I. Centers that have their star award revoked by quality start may be prohibited from participating in quality start for 12 months from the date of revocation of star award.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

### **§309. Quality Start Child Care Rating System Tiered Bonus Payments**

A. Bonus payments will be issued after the end of each calendar quarter to type III early learning centers that care for children receiving assistance from the Child Care Assistance Program and for children in the state's Foster Care Program in accordance with the star rating until June 30, 2016, and may be extended at the department's discretion through June 30, 2017. The payment is equal to a percentage, as defined below, of all child care subsidy payments received by the center from the department for services provided during the service period(s) in that quarter and the center's rating(s):

1. one star—0 percent;
2. two star—3 percent;
3. three star—8 percent;
4. four star—13.5 percent;
5. five star—20 percent.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

### **§311. Termination**

A. The quality start child care rating system shall terminate on June 30, 2017.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

#### **Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption,

repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

## Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2015, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: **Bulletin 139—Louisiana Child Care and Development Fund Programs**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy will have no effect on costs or savings to state or local governmental units over the next two fiscal years. The fiscal impact for FY 2017-2018 and beyond is indeterminable as the DOE has not yet promulgated rules for the replacement of the Quality Star Rating Program, which will terminate on June 30, 2017.

This bulletin, required by Act 868 of the 2014 Regular Legislative Session provides policy concerning the administration of the Child Care and Development Fund (CCDF) programs. This proposed bulletin allows for the continuation of the current early learning center rating system (Quality Start) until the letter grade rating system is fully established. The proposed policy mirrors the current Department of Children and Family Services (DCFS) regulations with a few additions.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1504#036

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CXV.2314 and 2357)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2314, Carnegie Credit and Credit Flexibility; and §2357, Physical Education. The proposed policy revisions clarify that Carnegie credit courses may be offered in middle school grades in all subject areas with the exception of physical education.

## Title 28

## EDUCATION

### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

#### Chapter 23. Curriculum and Instruction

##### Subchapter A. Standards and Curricula

##### §2314. Carnegie Credit and Credit Flexibility

A. LEAs may permit students to earn Carnegie credit as middle school students in all courses except physical education.

B. Students may earn Carnegie credit in two ways:

1. by passing a course in which the student is enrolled and meeting instructional time requirements, as set forth below; or

2. by demonstrating proficiency, as set forth below.

C. When awarding credit based on instructional time, LEAs shall provide a minimum of 7,965 instructional minutes for one Carnegie credit, and students shall be in attendance for a minimum of 7,515 minutes. In order to grant one-half Carnegie credit, LEAs shall provide a minimum of 3,983 instructional minutes, and students shall be in attendance for a minimum of 3,758 minutes.

D. When awarding Carnegie credit based on demonstrated proficiency, LEAs must inform the LDE of the following on behalf of any student or group of students:

1. the name of the examination used to measure proficiency, if nationally recognized; or

2. a copy of the examination used to measure proficiency, if locally developed or not nationally recognized and the score required to demonstrate proficiency; or

3. a listing of requirements to demonstrate proficiency through portfolio submissions.

E. Students enrolled in a course for the first time, which is not a credit recovery course or part of an accelerated program, shall only earn credit according to the pathway in Paragraph A.1 of this Section once the school year has begun.

1. If a student fails a course, but meets the standard of proficiency on the end-of-course exam, the student may retain that score to be factored into their final grade in either a credit recovery course or a repeat of the traditional course.

F. Proficiency in a course with a state-administered end-of-course exam must be demonstrated using the end-of-course exam.

G. The LDE may require revisions of assessments in order to ensure that they adequately measure proficiency.

H. Students meeting the requirements for Carnegie credit based on proficiency shall have the course title, the year proficiency was demonstrated, P (pass), and the unit of credit earned entered on their transcript.

1. LEAs shall determine whether to award the letter grade earned on the proficiency assessment(s) or a P (pass) when a student demonstrates proficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2215 (August 2013), amended LR 39:3260 (December 2013), LR 40:275 (February 2014), LR 41:

##### §2357. Physical Education

A. One and one-half units of physical education shall be required for graduation. They may include:

1. physical education I and II;
2. adapted physical education I and II for eligible special education students;
3. JROTC I, II, III, or IV; or
4. physical education I (1 unit) and one-half unit of marching band, extracurricular sports, cheering, or dance team.

B. The physical education course offerings shall be as follows.

Course Title(s)	Units
Adapted Physical Education I, II, III, IV	1 each
Physical Education I, II, III, IV	1 each
Marching Band	1/2
Cheering	1/2
Extracurricular Sports	1/2
Dance Team	1/2

C. The required 1 1/2 units of physical education may only be earned in transitional ninth grade through twelfth grade.

D. - J.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:17.1, R.S. 17:24.4, and R.S. 17:276.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1297 (June 2005), amended LR 33:430 (March 2007), LR 38:40 (January 2012), LR 39:2221 (August 2013), LR 41:

#### Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2015, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revision will have no effect on costs or savings to state or local governmental units.

The proposed policy revisions clarify that Carnegie credit courses may be offered in middle school grades in all subject areas with the exception of physical education.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1504#037

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for  
Nonpublic School Administrators  
(LAC 28:LXXIX.2102 and 2319)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*: §2102, Carnegie Credit and Credit Flexibility; and §2319, Health and Physical Education. The proposed policy revisions clarify that Carnegie credit courses may be offered in middle school grades in all subject areas with the exception of physical education.

#### Title 28

#### EDUCATION

#### Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

#### Chapter 21. Curriculum and Instruction

#### Subchapter A. General

#### §2102. Carnegie Credit and Credit Flexibility

A. Schools may permit students to earn Carnegie credit as middle school students in all courses except health and physical education.

B. Students may earn Carnegie credit in grades 5-12 two ways:

1. by passing a course in which the student is enrolled and meeting instructional time requirements, as set forth below; or

2. by demonstrating proficiency as set forth below.

C. When awarding credit based on instructional time, schools shall provide a minimum of 7,965 instructional minutes for one Carnegie credit, and students shall be in attendance for a minimum of 7,515 minutes. In order to grant one-half Carnegie credit, schools shall provide a minimum of 3,983 instructional minutes, and students shall be in attendance for a minimum of 3,758 minutes.

D. When awarding Carnegie credit based on demonstrated proficiency, schools must inform the LDE of the following on behalf of any student or group of students:

1. the name of the examination used to measure proficiency, if nationally recognized; or

2. a copy of the examination used to measure proficiency, if locally developed or not nationally recognized and the score required to demonstrate proficiency; or

3. a listing of requirements to demonstrate proficiency through portfolio submissions.

E. The LDE may require revisions of assessments in order to ensure that they adequately measure proficiency.

F. Students meeting the requirements for Carnegie credit based on proficiency shall have the course title, the year

proficiency was demonstrated, grade earned, and the unit of credit earned entered on their transcript.

1. School systems shall determine whether to award the letter grade earned on the proficiency assessment(s) or a P (pass) when a student demonstrates proficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, and R.S. 17:22(6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1444 (June 2013), amended LR 40:276 (February 2014), LR 40:1682 (September 2014), LR 41:

#### Chapter 23. High School Programs of Study

#### Subchapter C. Secondary Schools

#### §2319. Health and Physical Education

A. - B. ...

\* \* \*

1. The required units of health and physical education may be earned only in grades 9-12.

2. A minimum of 30 hours of health instruction shall be taught in each of the two required health and physical education units. Instructional hours in health education accrued in middle school may be applied to satisfy this requirement.

3. Cardiopulmonary resuscitation (CPR) is required.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 31:3086 (December 2005), LR 39:1448 (June 2013), LR 40:1685 (September 2014), LR 41:

#### Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2015, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy revision will have no effect on costs or savings to state or local governmental units.

The proposed policy revisions clarify that Carnegie credit courses may be offered in middle school grades in all subject areas with the exception of health and physical education.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1504#035

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Board of Elementary and Secondary Education**

Bulletin 746—Louisiana Standards for  
State Certification of School Personnel  
(LAC 28:CXXXI.Chapters 2 and 6)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §233, The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements); §235, The Master's Degree Program Alternative Path to Certification (Minimum Requirements); §237, Certification-Only Program Alternative Path to Certification; §605, Requirements to add Early Childhood (Grades PK-3); §607, Requirements to add Elementary (Grades 1-5); and §630, Requirements to add Mild/Moderate (1-5), (4-8) and (6-12)—Mandatory 7/1/2010. The proposed revisions reflect newly adopted titles of elementary exams required for Louisiana licensure.

#### **Title 28**

#### **EDUCATION**

#### **Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel**

#### **Chapter 2. Louisiana Educator Preparation Programs**

#### **Subchapter B. Alternate Teacher Preparation Programs**

#### **§233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements)**

##### **A. - B.4. ...**

##### **5. pass the Praxis content-specific examinations:**

a. candidates for grades PK-3, pass Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

b. candidates for grades 1-5 (regular education and mild/moderate), pass Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

##### **c. - e. ...**

6. meet other non-course requirements established by college or university.

##### **C. - I.3. ...**

4. passed the Praxis specialty examination for the area(s) of certification;

NOTE: This test was required for admission.

a. grades PK-3—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

b. grades 1-5 (regular and special education)—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

I.4.c. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1790 (October 2006), amended LR 34:1387 (July 2008), LR 35:1477 (August 2009), LR 36:2261, 2263 (October 2010), LR 37:549, 558 (February 2011), LR 37:3208 (November 2011), LR 39:1460 (June 2013), LR 40:276 (February 2014), LR 41:

### **§235. The Master's Degree Program Alternative Path to Certification (Minimum Requirements)**

A. - C.3. ...

4. pass the Praxis content-specific subject area examination:

a. candidates for PK-3 (regular education)—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

b. candidates for grades 1-5 (regular education and mild/moderate)—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

c. - e. ...

f. candidates for special education early interventionist birth to five years, significant disabilities 1-12, hearing impaired K-12, visual impairments/blind K-12—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

5. meet other non-course requirements established by the college/university.

#### **D. Program Requirements**

1. - 5.a. ...

E. Certification Requirements. Colleges/universities will submit signed statements to the Louisiana Department of Education indicating that the student completing the master's degree program alternative certification path met the following requirements:

1. passed core academic skills for educators components of Praxis (as required for admission);

2. completed all coursework in the master's degree alternate certification program with a 2.50 or higher grade point average (GPA);

3. passed the specialty examination (Praxis) for the area of certification (this test was required for admission);

a. grades PK-3 (regular education)—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

b. grades 1-5 (regular education and mild/moderate)—Elementary Education: Content Knowledge (0014 or 5014 prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

c. - e. ...

f. special education early interventionist (birth to five years), significant disabilities 1-12, hearing impaired K-12, and visual impairments/blind K-12—Elementary Education: Content Knowledge (0014 or 5014) specialty examination prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

E.4. - 5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1792 (October 2006), amended LR 35:1480 (August 2009), LR 36:2262, 2263 (October 2010), LR 37:549 (February 2011), LR 37:3209 (November 2011), LR 39:1460 (June 2013), LR 40:276 (February 2014), LR 41:

### **§237. Certification-Only Program Alternative Path to Certification**

A. - C.3.b. ...

#### **4. Testing Requirements**

a. Pass the Praxis core academic skills for educators. Candidates who already possess a graduate degree will be exempted from this requirement. An ACT composite score of 22 or a SAT combined verbal/critical reading and math score of 1030 may be used in lieu of Praxis core academic skills for educators exams.

b. Pass the Praxis content-specific subject area examination:

i. candidates for PK-3 (regular education)—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

ii. candidates for grades 1-5—Elementary Education: Content Knowledge (0014 or 5014 prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

iii. candidates for grades 4-8—pass the middle school subject-specific examination for the content area(s) to be certified;

iv. candidates for grades 6-12—pass the secondary subject-specific examination for the content area(s) to be



certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area;

v. candidates for all-level K-12 areas of art, dance, foreign language, health and physical education, and music—pass the subject-specific examination for the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program. Provider must develop a process to ensure that candidates demonstrate necessary performance skills in the all-level certification area;

vi. candidates for special education early interventionist birth to five years, significant disabilities 1-12, hearing impaired K-12, and visual impairments/blind K-12—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001).

D. - E.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1794 (October 2006), amended LR 35:1482 (August 2009), LR 36:2262, 2263 (October 2010), LR 37:550 (February 2011), LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 41:

## **Chapter 6. Endorsements to Existing Certificates**

### **§605. Requirements to add Early Childhood (Grades PK-3)**

A. - A.3. ...

B. Individuals holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary school certificate (e.g., 6-12, 7-12, 9-12), special education certificate (other than early interventionist), or an all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, music) must achieve the following:

1. passing score for Praxis—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

2. passing score for Praxis—Principles of Learning and Teaching Early Childhood (0621 or 5621) or accumulate 12 credit hours of combined early childhood and kindergarten coursework.

C. Individuals holding a valid early interventionist certificate must achieve the following:

1. passing score for Praxis—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

2. twelve credit hours of combined early childhood and kindergarten coursework; and

3. ...

D. Individuals holding a valid birth to kindergarten certificate must achieve the following:

1. passing score for Praxis Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001); and

2. nine semester hours of reading coursework or passing score for Praxis—Teaching Reading exam (0204 or 5204).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1815 (October 2006), amended LR 37:883 (March 2011), repromulgated LR 37:1561 (June 2011), amended LR 37:3215 (November 2011), LR 38:44 (January 2012), LR 39:1464 (June 2013), LR 41:

### **§607. Requirements to add Elementary (Grades 1-5)**

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3) must achieve the following:

1. passing score for Praxis—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

2. passing score for Praxis—Principles of Learning and Teaching K-6 exam; and

3. nine semester hours of reading or passing score for Praxis—Teaching Reading exam (0204 or 5204).

B. Individuals holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1.a. passing score for Praxis—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001); or

b. accumulate:

i. 12 semester hours of mathematics;

ii. 12 semester hours of science;

iii. 12 semester hours of English language arts;

and

iv. 12 semester hours of social studies;

2. passing score for Praxis Principles of Learning and Teaching K-6 exam; and

3. nine semester hours of reading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1815 (October 2006), amended LR 38:44 (January 2012), LR 39:1464 (June 2013), LR 41:

**§630. Requirements to add Mild/Moderate (1-5), (4-8) and (6-12)—Mandatory 7/1/2010**

A. - B.1.f. ...

2. passing score for Praxis exams—Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543), Principles of Learning and Teaching (PLT): K-6, and Elementary Education: Content Knowledge Exam (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001).

C. - E.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:1485 (August 2009), amended LR 37:553 (February 2011), LR 39:1464 (June 2013), LR 41:

**Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

**Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

**Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2015, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 746—Louisiana Standards for  
State Certification of School Personnel**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy revision will have no effect on costs or savings to state or local governmental units

The proposed policy revisions include two new PRAXIS exams aligned with English Language Arts and Math state approved standards. The current Elementary Content Exam, (5014), will not be offered by Educational Testing Services (ETS) after August 31, 2015. ETS will offer two options to replace the current content knowledge exam being phased out; Elementary Education: Multiple Subjects (5001) and Content Knowledge (5018). BESE approved adopting all exams effective 9/1/15 through 8/31/17 with the new exams becoming mandatory effective 9/1/17.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1504#038

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Bulletin 1566—Pupil Progression Policies and Procedures (LAC 28:XXXIX.307, 503 and 701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1566—Pupil Progression Policies and Procedures*: §307, Submission Process; §503, Regular Placement; and §701, Promotion Standard. The proposed policy revisions extend the transition policies for student promotion and school accountability by one year to ensure sufficient time to learn the higher expectations and to provide for a two-year baseline associated with the new assessments. The revisions also repeal duplicate policy.

#### Title 28

#### EDUCATION

#### Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

#### Chapter 3. General Procedure for Development; Approval and Revision of a Pupil Progression Plan

##### §307. Submission Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 26:64 (January 2000), 27:1517 (September 2001), repealed LR 41:

#### Chapter 5. Placement Policies—General Requirements

##### §503. Regular Placement

A. - A.1.e. ...

B. Requirements for High School Students

1. Each plan shall include the following statements, that:

a. for incoming freshmen prior to 2010-2011, in addition to completing the required minimum number of 23 Carnegie units of credit as presented by BESE, the students must pass the required components of the graduation exit examination (GEE) in order to receive a high school diploma;

b. for incoming freshmen in 2010-2011 and beyond, in addition to completing the required minimum number of Carnegie units of credits as presented by BESE, students must pass the required end-of-course tests to receive a high school diploma;

c. Beginning with the conclusion of the 2013-2014 school year, any first-time eighth grade student who does not meet the passing standard set forth in §701 of this bulletin and any student not eligible for any waiver pursuant to §707 of this bulletin, after taking the state assessments in spring and summer, may be placed on a high school campus in transitional ninth grade.

d. At the conclusion of the 2014-2015 and 2015-2016 school years, LEAs shall follow the guidelines set forth in §701.B to determine, based on evidence of student learning, whether eighth grade students may be promoted to the ninth grade or placed on a high school campus in

transitional ninth grade. The percentage of an LEA's eighth graders placed in transitional ninth grade is expected to remain stable over time. In the event that the percentage of an LEA's eighth graders placed in transitional ninth grade in 2015-2016 exceeds the percentage of eighth graders in that LEA eligible for transitional ninth grade at the conclusion of the 2013-2014 school year, the local superintendent of that LEA shall provide a written justification to the state superintendent.

e. The decision to place a student in the transitional ninth grade or to retain a student in the eighth grade shall be made by the school in which the student is enrolled in the eighth grade, in consultation with the student's parents.

f. Each LEA shall admit transitional ninth grade students, subject to any admissions requirements approved by the school's governing authority or charter authorizer.

g. The following shall govern the transitional ninth grade.

i. Students placed in the transitional ninth grade shall participate in the summer remediation program offered by the LEA and the summer retest.

ii. After one full year of transitional ninth grade, students shall be included in the ninth grade graduation cohort for high school accountability.

iii. Students enrolled in transitional ninth grade shall receive remediation in any subjects in which they did not score at or above proficient, as determined by BESE. A plan outlining such remediation shall be included in the student's individual graduation plan.

iv. Students enrolled in transitional ninth grade shall have opportunities to take career and technical education courses and participate in any career training opportunities included in a high school career pathway developed by a consortium of LEAs, post-secondary colleges and universities, and local business and industry, and approved by the LDE.

v. Students enrolled in transitional ninth grade shall receive dropout prevention and mentoring services based on proven strategies to retain and graduate at-risk students. The LDE shall make available to LEAs a list of recommended strategies and technical assistance needed to offer students such services.

C. - E.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 2000), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:407 (March 2004), LR 31:1974 (August 2005), LR 31:3103 (December 2005), LR 33:2063 (October 2007), LR 34:2389 (November 2008), LR 36:2003 (September 2010), LR 40:765 (April 2014), LR 40:1332 (July 2014), LR 40:2533 (December 2014), LR 41:

#### Chapter 7. High Stakes Testing Policy

##### §701. Promotion Standard

A. At the conclusion of the 2013-2014 school year, a student who is a first-time fourth or eighth grader must score at or above the basic achievement level on the English language arts or mathematics components of the LEAP and at or above the approaching basic achievement level on the other (hereafter referred to as the passing standard) to be promoted to the fifth or ninth grade, respectively.

1. LEAs may promote any first-time fourth grade student who did not receive sufficient instruction needed to achieve the passing standard on the transitional state assessment, but who has demonstrated readiness for fifth grade content through evidence of student learning, to the fifth grade. Each LEA shall include guidance in its local pupil progression plan outlining the evidence of student learning used to make such promotion decisions, including but not limited to performance on classroom assignments or benchmark assessments.

2. LEAs may promote any first-time eighth grade student who fails to achieve the passing standard to the transitional ninth grade, pursuant to requirements set forth in §503.B.1.c.

B. At the conclusion of the 2014-2015 and 2015-2016 school years, placement decisions for fourth and eighth grade students shall be made according to local pupil progression plans, which shall outline the evidence of student learning used to make promotion decisions. Such evidence shall include, but not be limited to, performance on classroom assignments or benchmark assessments.

C. At the conclusion of the 2016-2017 school year and beyond, a student who is a first-time fourth or eighth grader must score at or above the proficient achievement level, as determined by BESE, on the English language arts or mathematics component of the LEAP and at or above one achievement level below proficient, as determined by the state board (hereinafter referred to as the passing standard) to be promoted to the fifth or ninth grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2005 (September 2010), amended LR 40:765 (April 2014), LR 41:

#### **Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? Yes.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the

purposes of this Section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2015, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 1566—Pupil Progression Policies and Procedures**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy revision will have no effect on costs or savings to state or local governmental units.

The proposed policy revisions extend the transition policies for student promotion by one year to ensure sufficient time to learn the higher expectations and to provide for a two-year baseline associated with the new assessments. The revisions also repeal duplicate policy.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1504#033

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Honorary Diplomas (LAC 28:I.1501)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement revisions to the *Louisiana Administrative Code*, Title 28, Part I, Chapter 15, Honors and/or Special Recognitions, §1501, Honorary Diplomas. These revisions are in response to legislative resolutions from the years 2000 (HCR 24) and 2006 (SCR 9), which requested the board devise and implement a program to grant honorary high school diplomas to veterans who left high school prior to graduation to serve the United States in military conflicts around the world. Further, the revisions make clear that the rights and privileges attached to a regular high school diploma, or its equivalent, are not applicable to the honorary diploma issued to veterans meeting the requirements of this policy.

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 15. Honors and/or Special Recognitions**

**§1501. Honorary Diplomas**

A. The board may award an honorary diploma to qualifying students who left high school before graduating to serve in the United States Armed Forces during World War II, the Korean Conflict, or the Vietnam War.

1. Veterans shall meet the following criteria to be eligible for an honorary diploma.

a. The veteran left a public school located in Louisiana in order to serve in the United States Armed Forces during World War II, the Korean Conflict, or the Vietnam War.

b. The veteran would have graduated from a public school in Louisiana in the years ranging from 1941 to 1950, 1950 to 1955, or 1964 to 1974.

c. The veteran received an honorable discharge from the United States Armed Forces or was released from active duty because of a service related disability.

d. The veteran has not previously been awarded a Louisiana standard high school diploma, but may have passed a high school equivalency examination.

2. An honorary diploma may be awarded posthumously to the family of a deceased veteran.

3. An honorary diploma awarded to an eligible veteran shall not be considered a standard Louisiana high school diploma for the purposes of satisfying postsecondary

admissions requirements and/or determining eligibility for postsecondary financial aid, including, but not limited to, the Taylor Opportunity Program for Students (TOPS) scholarship.

4. The rights and privileges attached to a standard high school diploma, or its equivalent, are not applicable to any honorary diplomas conferred upon veterans meeting the requirements outlined above.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

**Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

**Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

**Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the

drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2015, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Honorary Diplomas**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The changes to Louisiana Administrative Code, Title 28, Part I, §1501 establish a policy related to awarding honorary high school diplomas to certain veterans.

Specifically, the revisions authorize BESE to issue honorary diplomas to veterans of World War II, the Korean Conflict, and the Vietnam War. Further, the revisions make clear that the rights and privileges attached to a regular high school diploma, or its equivalent, are not applicable to the honorary diploma issued to veterans meeting the requirements of this policy. These revisions are in response to legislative resolutions from the year 2000 (HCR 24) and 2006 (SCR 9), and are consistent with the implementation of these resolutions that has occurred to date.

This policy change will have no fiscal effect other than an estimated cost of \$426 to advertise in the Louisiana Register (two pages at the cost of \$213 per page).

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This action will have no effect on revenue collections of state or local government units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This action will have no effect on cost and/or economic benefits to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This action will have no effect on competition or employment.

Shan N. Davis  
Executive Director  
1504#034

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Tuition Trust Authority Office of Student Financial Assistance**

START Saving Program—Interest Rates  
for the 2014 Calendar Year (LAC 28:VI.315)

The Louisiana Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 et seq.).

This rulemaking adds the applicable interest rates for the 2014 calendar year. (ST15162NI)

#### **Title 28**

#### **EDUCATION**

#### **Part VI. Student Financial Assistance — Higher Education Savings**

#### **Chapter 3. Education Savings Account §315. Miscellaneous Provisions**

A. - B.30. ...

31. For the year ending December 31, 2014, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.08 percent.

32. For the year ending December 31, 2014, the Savings Enhancement Fund earned an interest rate of 1.31 percent.

C. - S.2. ...

AUTHORITY NOTE: Promulgated in accordance with 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:

#### **Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Statement**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

#### **Provider Impact Statement**

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

#### **Public Comments**

Interested persons may submit written comments on the proposed changes (ST15162NI) until 4:30 p.m., May 11, 2015, to Sujuan Williams Boutté, Executive Director, Office

of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge  
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**  
**RULE TITLE: START Saving Program—Interest Rates  
for the 2014 Calendar Year**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated implementation costs or savings to state or local governmental units. This proposed change places in rule the actual earnings realized by START account owners who invested in the Louisiana Principal Protection investment option and the actual earnings realized on the investment of Earnings Enhancements. This increase in START funds belongs to the account owner (it is not state general fund money), and no expenditure of state general funds is required.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state and local governments will not be affected by the proposed changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

These changes adopt interest rates for deposits and earnings enhancements for the year ending December 31, 2014. START account holders earned slightly less than in the previous year.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There are no anticipated effects on competition and employment resulting from these measures.

George Eldredge  
General Counsel  
1504#017

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary  
Legal Division**

2014 Annual Incorporation by Reference  
Federal Air Quality Regulations  
(LAC 33:III.506, 507, 2160, 3003,  
5116, 5311 and 5901)(AQ352ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.506, 507, 2160, 3003, 5116, 5311 and 5901 (Log #AQ352ft).

This rule is identical to federal regulations found in 40 CFR Part 51, Appendix M, 40 CFR Part 60, 40 C.F.R. Part 61, 40 CFR Part 63, 40 CFR Part 68, 40 CFR Part 70.6(a), and 40 CFR Part 96, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be

promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference (IBR) into the *Louisiana Administrative Code* (LAC), Title 33, Part III, Air the following federal regulations included in the July 1, 2014 edition of the *Code of Federal Regulations* (CFR): 40 C.F.R. Parts 51, Appendix M, 60, 61, 63, 68, 70.6(a) and 96. Any exception to the IBR is explicitly listed in the Rule. This Rule updates the references to July 1, 2014, for Standard of Performance for New Stationary Sources, 40 C.F.R. Part 60. The Rule also updates the references to July 1, 2014, for the National Emission Standards for Hazardous Air Pollutants (NESHAP) and for NESHAP for Source Categories, 40 C.F.R. Parts 61 and 63. In order for Louisiana to maintain equivalency with federal regulations, certain regulations in the most current *Code of Federal Regulations*, July 1, 2014, must be adopted into the *Louisiana Administrative Code* (LAC). This rulemaking is also necessary to maintain delegation authority granted to Louisiana by the Environmental Protection Agency. The basis and rationale for this Rule are to mirror the federal regulations as they apply to Louisiana's affected sources. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 5. Permit Procedures**

**§507. Part 70 Operating Permits Program**

**A. - B.1. ...**

2. No part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2014. Upon issuance of the permit, the part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

**C. - J.5. ...**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December

1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1229 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1276 (May 2013), LR 40:1334 (July 2014), LR 41:

**Chapter 21. Control of Emission of Organic Compounds**

**Subchapter N. Method 43—Capture Efficiency Test Procedures**

[Editor's Note: This Subchapter was moved and renumbered from Chapter 61 (December 1996).]

**§2160. Procedures**

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR 51, Appendix M, July 1, 2014, are hereby incorporated by reference.

B. - C.2.b.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:1334 (July 2014), LR 41:

**Chapter 30. Standards of Performance for New Stationary Sources (NSPS)**

**Subchapter A. Incorporation by Reference**

**§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60**

A. Except for 40 CFR 60, subpart AAA, and as modified in this Section, standards of performance for new stationary sources, published in the *Code of Federal Regulations* at 40 CFR 60, July 1, 2014, are hereby incorporated by reference as they apply to the state of Louisiana.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620

(August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2754 (November 2012), LR 39:1039 (April 2013), LR 39:1277 (May 2013), LR 40:1335 (July 2014), LR 40:2540 (December 2014), LR 41:

**Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**

**Subchapter B. Incorporation by Reference of 40 CFR**

**Part 61 (National Emission Standards for Hazardous Air Pollutants)**

**§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants, published in the *Code of Federal Regulations* at 40 CFR 61, July 1, 2014, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR Part 61	Subpart/Appendix Heading
* * *	

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:1335 (July 2014), LR 41:

**Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources**

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2014, are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation



Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2627 (December 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013), LR 40:1335 (July 2014), LR 41:

## **Chapter 53. Area Sources of Toxic Air Pollutants**

### **Subchapter B. Incorporation by Reference of 40 CFR**

#### **Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources**

#### **§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources**

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2014, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2756 (November 2012), LR 39:1278 (May 2013), LR 40:1336 (July 2014), LR 41:

## **Chapter 59. Chemical Accident Prevention and Minimization of Consequences**

### **Subchapter A. General Provisions**

#### **§5901. Incorporation by Reference of Federal Regulations**

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR 68, July 1, 2014.

B. - C.6. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212

(December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008), LR 35:1109 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013), LR 40:1336 (July 2014), LR 41:

#### **Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

#### **Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ352ft. Such comments must be received no later than May 29, 2015, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to [deidra.johnson@la.gov](mailto:deidra.johnson@la.gov). The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ352ft. This regulation is available on the internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

#### **Public Hearing**

A public hearing will be held on May 29, 2015, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM  
Executive Counsel

1504#048

## NOTICE OF INTENT

### Department of Environmental Quality Office of the Secretary Legal Division

Distribution of Byproduct Material  
(LAC 33:XV.102, 301, 304, 322, 324, 328, 361,  
399, 460, 465, 499, 541, 731, and 1302)(RP058ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.102, 301, 304, 322, 324, 328, 361, 399, 460, 465, 499, 541, 731, and 1302 (Log #RP058ft).

This Rule is identical to federal regulations found in 10 CFR 20, 30, 31, 32, 34, 35, 40 and 70, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule makes minor changes to the requirements for distribution of byproduct material, which was promulgated by the Nuclear Regulatory Commission (NRC) as RATS ID 2012-4. It also addresses changes required by 14 comments from the NRC regarding a previous rulemaking (RP055ft) and one comment from the NRC regarding RP056ft. This Rule will update the state regulations to be compatible with changes in the federal regulations.

The changes in the state regulations are category A, B, C, and H and S requirements for the state of Louisiana to remain an NRC agreement state. The basis and rationale for this Rule are to mirror the federal regulations and maintain an adequate agreement state program. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### Title 33

### ENVIRONMENTAL QUALITY Part XV. Radiation Protection

#### Chapter 1. General Provisions

#### §102. Definitions and Abbreviations

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that Chapter.

\* \* \*

*Authorized Nuclear Pharmacist*—a pharmacist who:

1. ...
2. is identified as an authorized nuclear pharmacist on a departmental, licensing state, Nuclear Regulatory Commission, or agreement state specific license that authorizes medical use or the practice of nuclear pharmacy; or
3. is identified as an authorized nuclear pharmacist on a permit issued by the department, licensing state, Nuclear Regulatory Commission, or agreement state broad scope medical use licensee that authorizes medical use or the practice of nuclear pharmacy; or

4. is identified as an authorized nuclear pharmacist on a permit issued by a Nuclear Regulatory Commission master material licensee that authorizes medical use or the practice of nuclear pharmacy; or

5. is identified as an authorized nuclear pharmacist on a permit issued by a Nuclear Regulatory Commission master material license broad scope medical use permittee that authorizes medical use or the practice of nuclear pharmacy; or

6. is identified as an authorized nuclear pharmacist by a commercial nuclear pharmacy that has been authorized to identify authorized nuclear pharmacists; or

7. is designated as an authorized nuclear pharmacist in accordance with LAC 33:XV.328.J.2.d; or

8. meets the requirements specified in LAC 33:XV.763.K and M.

\* \* \*

#### *Byproduct Material*—

1. - 4. ...

5. any discrete source of naturally occurring radioactive material, other than source material that the U.S. Nuclear Regulatory Commission, in consultation with the administrator of the Environmental Protection Agency, the secretary of Energy, the secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and before, on, or after August 8, 2005, is extracted or converted after extraction for the use in a commercial, medical, or research activity.

\* \* \*

*Waste*—those low-level radioactive wastes that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level waste has the same meaning as in the Low-Level Radioactive Waste Policy Act, P.L. 96-573, as amended by P.L. 99-240, effective January 15, 1986; that is, radioactive waste:

1. not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11.e.(2) of the Atomic Energy Act (uranium or thorium tailings and waste) and Paragraphs 3, 4, and 5 in the definition of *byproduct material* of this Section; and

2. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:1171, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:811 (May 2006), LR 32:1853 (October 2006), LR 33:1016 (June 2007), LR 33:2175 (October 2007), LR 34:982 (June 2008), LR 36:1771 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2748 (November 2012), LR

40:283 (February 2014), LR 40:1338 (July 2014), LR 40:1926 (October 2014), LR 41:

### **Chapter 3. Licensing of Byproduct Material**

#### **§301. Purpose and Scope**

A. This Chapter and Chapters 7, 13, and 15 provide for the licensing of radioactive material. No person shall manufacture, produce, receive, possess, use, transfer, own, or acquire byproduct material except as authorized in a specific or general license issued pursuant to this Chapter or as otherwise provided in these regulations.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of the Secretary, Legal Division, LR 41:

### **Subchapter A. Exemptions**

#### **§304. Radioactive Material Other Than Source Material**

A. - C.4.d. ...

##### **5. Certain Industrial Devices**

a. Except for persons who manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing an ionized atmosphere, any person is exempt from the requirements for a license set forth in these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material, in these certain detecting, measuring, gauging, or controlling devices and certain devices for producing an ionized atmosphere, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under 10 CFR 32.30, which license authorizes the initial transfer of the device for use under this Section. This exemption does not cover sources not incorporated into a device, such as calibration and reference sources.

b. Any person who desires to manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material for use under Subparagraph a of this Paragraph, shall apply for a license under 10 CFR 32.30 and for a certificate of registration in accordance with LAC 33:XV.361.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1226 (August 2001), amended by the Office of the Secretary, Legal Division, LR 38:2746 (November 2012), LR 40:283 (February 2014), LR 40:1339 (July 2014), LR 41:

### **Subchapter C. General Licenses**

#### **§322. General Licenses: Radioactive Material Other Than Source Material**

A. Reserved.

B. - B.3.a. ...

b. not abandon products containing radium-226.

The product, and any radioactive material from the product, may only be disposed of according to LAC 33:XV.465.F or by transfer to a person authorized by a specific license to receive the radium-226 in the product or as otherwise approved by another agreement state or the NRC;

B.3.c. - D.3.k. ...

l. register, in accordance with the provisions in this Subparagraph, devices containing at least 370 MBq (10 mCi) of cesium-137, 3.7 MBq (0.1 mCi) of strontium-90, 37 MBq (1 mCi) of cobalt-60, 3.7 megabecquerels (0.1 millicurie) of radium-226, or 37 MBq (1 mCi) of americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label. Each address for a location of use, as described in this Subparagraph, represents a separate general licensee and requires a separate registration and fee:

D.3.l.i. - J.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1226 (August 2001), LR 30:1663 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005), LR 32:811 (May 2006), LR 33:448 (March 2007), LR 33:2177 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:284 (February 2014), LR 40:1340 (July 2014), LR 41:\*\*.

### **Subchapter D. Specific Licenses**

#### **§324. Filing Application for Specific License**

A. - D.1.c. ...

d. information on the PET drugs to be noncommercially transferred to members of its consortium, including the radionuclide; the chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radioactive drug; and the shielding provided by the packaging to show it is appropriate for the safe handling and the storage of the radioactive drugs by medical use licensees.

D.2. - K. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:179 (February 1994), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1227 (August 2001), amended by the Office of the Secretary, Legal Affairs

Division, LR 31:2525 (October 2005), LR 33:2178 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:286 (February 2014), LR 41:

**§328. Special Requirements for Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Byproduct Material**

A. - D.1.e. ...

f. The device has been registered in the sealed source and device registry.

2. - 4.g. ...

E. Special Requirements for the Manufacture, Assembly, Repair, or Initial Transfer of Luminous Safety Devices for Use in Aircraft

1. An application for a specific license to manufacture, assemble, repair, or initially transfer luminous safety devices containing tritium or promethium-147 for use in aircraft, for distribution to persons generally licensed under LAC 33:XV.322.E, will be approved subject to the following conditions:

a. ...

b. the applicant satisfies the requirements of 10 CFR 32.53, 32.54, 32.55, and 32.56 or their equivalent.

F. - I.1.a. ...

b. the criteria of 10 CFR 32.61 and 32.62 are met.

J. - J.2.c. ...

d. may designate a *pharmacist* as defined in LAC 33:XV.102 as an authorized nuclear pharmacist if:

J.2.d.i. - L.1.c. ...

d. the source or device has been registered in the sealed source and device registry.

L.2. - M.4.g. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2401(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 26:2768 (December 2000), LR 27:1228 (August 2001), LR 30:1664 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2526 (October 2005), LR 33:2179 (October 2007), LR 36:1771 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2746 (November 2012), LR 40:286 (February 2014), LR 41:

**§361. Registration of Product Information**

A. Any manufacturer or initial distributor of a sealed source or device containing a sealed source may submit a request to the department for evaluation of radiation safety information about its product and for its registration.

B. - C. ...

D. The department normally evaluates a sealed source or a device using radiation safety criteria in accepted industry standards. If these standards and criteria do not readily apply to a particular case, the department formulates reasonable standards and criteria with the help of the manufacturer or distributor. The department shall use criteria and standards sufficient to ensure that the radiation safety properties of the device or sealed source are adequate to protect health and minimize danger to life and property. LAC 33:XV.Chapter 3 includes: specific criteria that apply to certain exempt

products; specific criteria applicable to certain generally licensed devices; and specific provisions that apply to certain specifically licensed items.

E. After completion of the evaluation, the department issues a certificate of registration to the person making the request. The certificate of registration acknowledges the availability of the submitted information for inclusion in an application for a specific license proposing use of the product, or concerning use under an exemption from licensing or general license as applicable for the category of certificate.

F. - F.2. ...

G. Authority to manufacture or initially distribute a sealed source or device to specific licensees may be provided in the license without the issuance of a certificate of registration in the following cases:

1. calibration and reference sources containing no more than:

a. 37 MBq (1 mCi) for beta and/or gamma emitting radionuclides; or

b. 0.37 MBq (10 µCi) for alpha emitting radionuclides; or

2. the intended recipients are qualified by training and experience and have sufficient facilities and equipment to safely use and handle the requested quantity of radioactive material in any form in the case of unregistered sources or, for registered sealed sources contained in unregistered devices, are qualified by training and experience and have sufficient facilities and equipment to safely use and handle the requested quantity of radioactive material in unshielded form, as specified in their licenses; and

a. the intended recipients are licensed under LAC 33:XV.327 or comparable provisions of the U.S. Nuclear Regulatory Commission or an agreement state; or

b. the recipients are authorized for research and development; or

c. the sources and devices are to be built to the unique specifications of the particular recipient and contain no more than 740 GBq (20 Ci) of tritium or 7.4 GBq (200 mCi) of any other radionuclide.

H. After the certificate is issued, the department may conduct an additional review as it determines is necessary to ensure compliance with current regulatory standards. In conducting its review, the department will complete its evaluation in accordance with criteria specified in this Section. The department may request such additional information as it considers necessary to conduct its review and the certificate holder shall provide the information as requested.

I. Inactivation of Certificates of Registration of Sealed Sources and Devices

1. A certificate holder who no longer manufactures or initially transfers any of the sealed source(s) or device(s) covered by a particular certificate issued by the department shall request inactivation of the registration certificate. Such a request shall be made to the Office of Environmental Compliance and must normally be made no later than two years after initial distribution of all of the source(s) or device(s) covered by the certificate has ceased. However, if the certificate holder determines that an initial transfer was in fact the last initial transfer more than two years after that transfer, the certificate holder shall request inactivation of

the certificate within 90 days of this determination and briefly describe the circumstances of the delay.

2. If a distribution license is to be terminated in accordance with LAC 33:XV.332, the licensee shall request inactivation of its registration certificates associated with that distribution license before the department will terminate the license. Such a request for inactivation of certificate(s) shall indicate that the license is being terminated and include the associated specific license number.

3. A specific license to manufacture or initially transfer a source or device covered only by an inactivated certificate no longer authorizes the licensee to initially transfer such sources or devices for use. Servicing of devices shall be in accordance with any conditions in the certificate, including in the case of an inactive certificate.

J. Serialization of Nationally Tracked Sources. Each licensee who manufactures a nationally tracked source after February 6, 2007, shall assign a unique serial number to each nationally tracked source. Serial numbers must be composed only of alpha-numeric characters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:45 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 33:1017 (June 2007), LR 33:2180 (October 2007), amended by the Office of the Secretary, Legal Division, LR 41:

## Subchapter Z. Appendices

### §399. Schedules A and B, and Appendices A, B, C, D, E, F, and G

Schedule A. - Schedule A, Note 4. ....  
\* \* \*

Schedule B Exempt Quantities	
Byproduct Material	Microcuries
***	
Germanium 68 (Ge 68)	10
***	
Platinum 197 (Pt 197)	100
***	
Rubidium 81 (Rb 81)	10
***	

Footnotes to Schedule B - Appendix G ...  
\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:180 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 27:1228 (August 2001), amended by the Office of Environmental Assessment, LR 31:46 (January 2005), LR 31:1580 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 32:820 (May 2006), LR 32:1853 (October 2006), LR 33:449 (March 2007), LR 33:1017 (June 2007), LR 33:2181 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:288 (February 2014), LR 41:

## Chapter 4. Standards for Protection against Radiation

### Subchapter H. Waste Disposal

#### §460. General Requirements

A. - A.3. ...

4. as authorized in accordance with LAC 33:XV.461, 462, 463, 464, or 465.F.

B. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of the Secretary, Legal Division, LR 40:289 (February 2014), LR 41:

#### §465. Transfer for Disposal and Manifests

A. - D. ...

E. Any licensee shipping byproduct material as defined in LAC 33:XV.102, *byproduct material*, 3, 4, and 5 intended for ultimate disposal at a licensed land disposal facility shall document the information required for the consignee and transfer this recorded manifest information to the intended consignee in accordance with the requirements specified in LAC 33:XV.499.Appendix D.

F. Licensed material as defined in LAC 33:XV.102.*byproduct material*, 3, 4, and 5 may be disposed of in accordance with LAC 33:XV.Chapter 13, even though it is not defined as low level radioactive waste. Therefore, any licensed byproduct material being disposed of or transferred for ultimate disposal at a facility licensed under LAC 33:XV.Chapter 13 shall meet the requirements of Subsections A – E of this Section. A licensee may dispose of *byproduct material*, as defined in LAC 33:XV.102.*byproduct material*, 3, 4, and 5, at a disposal facility authorized to dispose of such material in accordance with any federal or state solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 24:2096 (November 1998), amended by the Office of the Secretary, Legal Division, LR 40:289 (February 2014), LR 41:

### Subchapter Z. Appendices

#### §499. Appendices A, B, C, D, E

A. - B, Table III. ...  
\* \* \*

List of Elements—Atomic Numbers		
Name	Symbol	Number
***		
Nitrogen	N	7
Osmium	Os	76
Oxygen	O	8
***		

\* \* \*

C. - E. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 20:653 (June 1994), LR 22:973 (October 1996), LR 24:2096 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2580 (November 2000), LR 28:1012 (May 2002), amended by the Office of Environmental Assessment, LR 31:48 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2530 (October 2005), LR 33:2183 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:289 (February 2014), LR 40:1341 (July 2014), LR 41:

## **Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations**

### **Subchapter A. Equipment Control**

#### **§541. Locking of Sources of Radiation**

A. Each radiographic exposure device must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The exposure device and/or its container must be kept locked, with the key removed at all times for a keyed-lock, when not under the direct surveillance of a radiographer or a radiographer trainee except at permanent radiographic installations in accordance with LAC 33:XV.585. In addition, during radiographic operations the sealed source assembly must be secured in the shielded position each time the source is returned to that position.

B. Each sealed source storage container and source changer must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. Storage containers and source changers must be kept locked, with the key removed at all times for a keyed-lock, when containing sealed sources, except when under the direct surveillance of a radiographer or radiographer trainee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1232 (August 2001), LR 28:306 (February 2002), LR 30:1189 (June 2004), amended by the Office of the Secretary, Legal Division, LR 41:

## **Chapter 7. Use of Radionuclides in the Healing Arts**

### **§731. Use of Radiopharmaceuticals, Generators, and Reagent Kits for Imaging and Localization Studies**

A. - H.1.d. ...

I. A licensee may use the authorization under LAC 33:XV.324.D.1, Nuclear Regulatory Commission, or agreement state requirements to produce positron emission tomography (PET) radioactive drugs for noncommercial transfer to medical use licensees in its consortium. This does not relieve the licensee from complying with applicable FDA, other federal agencies, and agreement state requirements governing radioactive drugs.

J. Each licensee authorized under LAC 33:XV.324.D.1 to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall:

1. - 2. ...

K. A licensee that is a pharmacy authorized under LAC 33:XV.324.D.1 to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall require that any individual who prepares PET radioactive drugs shall be:

1. an *authorized nuclear pharmacist* as defined in LAC 33:XV.102 and meets the requirements of LAC 33:XV.763.K; or

2. an individual under the supervision of an *authorized nuclear pharmacist* as specified in LAC 33:XV.709.A or B.

L. A pharmacy that is authorized under LAC 33:XV.324.D.1 to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium that allows an individual to work as an authorized nuclear pharmacist, shall meet the requirements of LAC 33:XV.328.J.2.e.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 27:1238 (August 2001), LR 30:1178 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:982 (June 2008), amended by the Office of the Secretary, Legal Division, LR 40:291 (February 2014), LR 41:

## **Chapter 13. Licensing Requirements for Land Disposal of Radioactive Waste**

### **Subchapter A. General Provisions**

#### **§1302. Definitions**

A. As used in this Chapter, the following definitions apply.

\* \* \*

*Waste*—those low-level radioactive wastes containing source, special nuclear, or byproduct material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste has the same meaning as in the Low-Level Radioactive Waste Policy Act, P.L. 96-573, that is radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11.e (2) of the Atomic Energy Act (uranium or thorium tailings and waste) and LAC 33:XV.102.*byproduct material*, 3, 4, and 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 23:1140 (September 1997), amended by the Office of the Secretary, Legal Division, LR 40:292 (February 2014), LR 41:

#### **Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

#### **Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

### Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP058ft. Such comments must be received no later than May 29, 2015, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to [deidra.johnson@la.gov](mailto:deidra.johnson@la.gov). The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP058ft. This regulation is available on the internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

### Public Hearing

A public hearing will be held on May 29, 2015, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM  
Executive Counsel

1504#047

### NOTICE OF INTENT

#### Office of the Governor Division of Administration Racing Commission

Timing of Entering Next Claiming Race (LAC 35:XI.9905)

The Louisiana state Racing Commission hereby gives notice that it intends to publish and amend the following Rule by Notice Of Intent. The proposed amended Rule requires that the claimed horse shall not enter in starter, optional or claiming races for 30 days after being claimed in a race in which the determining eligibility price is less than 25 percent more than the price at which the horse was claimed, wherein the Rule previously allowed a horse to be claimed and enter in an optional or claiming races for 30 days after being claimed in a race in which the determining eligibility price is less than the price at which the horse was claimed.

### Title 35

### HORSE RACING

#### Part XI. Claiming Rules and Engagements

#### Chapter 99. Claiming Rule

#### §9905. Timing of Entering Next Claiming Race

A. Except as otherwise provided herein, a claimed horse shall not enter in starter, optional or claiming races for 30 days after being claimed in a race in which the determining eligibility price is less than 25 percent more than the price at which the horse was claimed. The day claimed shall not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the thirty-first day following the claim for any claiming price. This provision shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper. A similar rule in other states will be recognized and enforced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 30:1476 (July 2004), amended LR 33:2422 (November 2007), LR 41:

#### Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

#### Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

#### Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

#### Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Timing of Entering Next Claiming Race

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental units as a result of the proposed rule change. The proposed rule regarding claimed horse eligibility reverts the language to the version promulgated in July 2004 and in effect through 2007.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed administrative rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Trainers and owners will be impacted by the proposed rule as it requires that a claimed horse shall not enter in starter, optional, or claiming races for 30 days after being claimed in a race in which the determining eligibility price is less than 25 percent more than the price at which the horse was claimed. The rule previously allowed a horse to be claimed and entered in optional or claiming races for 30 days after being claimed in a race in which the determining eligibility price is the same as or more than the price at which the horse was claimed.

The proposed rule would help preserve the welfare of claimed horses, allowing owners to enter claimed horses in optional or claiming races within 30 days of the claim only if the determining eligibility price is 25 percent or more than the price at which the horse was claimed. The proposed rule prevents owners from claiming a horse and entering it in an optional or claiming race with any lower determining eligibility price other than 25 percent or more than the race in which the horse was claimed in for less than 30 days after the initial claim. Given the increased focus on the health, safety, and welfare of the horse, the proposed rule would prevent premature re-entering of a claimed horse in a race.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner III  
Executive Director  
1504#006

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

**Continuing Education Requirement Exemptions  
(LAC 46:XXXIII.1607)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.1607.

The Louisiana state Board of Dentistry is amending LAC 46:XXXIII.1607 to allow a dentist or dental hygienist to be exempt from continuing education requirements during the first calendar year in which they obtained their licensure and in the year thereafter also allowing them to obtain half of the mandated continuing education requirements.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Profession**

**Chapter 16. Continuing Education Requirements**

**§1607. Exemptions**

A. - A.2. ...

3. dentists in the first calendar year of their initial licensure;

4. dental hygienists in the first calendar year of their initial licensure.

B. ...

C. Dentists renewing their licenses in the calendar year following their initial licensure must complete one-half of the continuing education required under §1611.

D. Dental hygienists renewing their licenses in the calendar year following their initial licensure must complete one-half of the continuing education required under §1613.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 24:1117 (June 1998), LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001), amended LR 41:

**Family Impact Statement**

There will be no family impact in regard to issues set forth in R.S. 49:972.

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Provider Impact Statement**

The proposed rulemaking should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments on this proposed Rule change to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA, 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

**Public Hearing**

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.  
Executive Director



**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Continuing Education  
Requirement Exemptions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be a one-time cost to the Board of Dentistry of \$500 in FY 15 for publication of the proposed Rules in the *Louisiana Register*. There are no estimated costs or savings to local governmental units from the proposed Rule changes. The proposed Rule changes modify continuing education requirements for dentists and dental hygienists under certain circumstances. Under current practices, individuals must renew licensure biennially with those possessing names beginning with the letters A-L renewing in odd-numbered years while those with names beginning with M-Z renew in even years. The proposed Rule change prevents unintended burdens on certain individuals applying for and renewing licensure in the state. The proposed change exempts dentists and dental hygienists from continuing education requirements in the first calendar year of initial licensure, instead of the first calendar year of graduation from dental school. The change also stipulates that dentists and dental hygienists requiring licensure renewal in the calendar year following initial licensure are only required one-half of the standard, 20-hour biennial continuing education credit requirement.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no anticipated effect on revenue collections by state or local governmental units as a result of the proposed Rule changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Dental and dental hygiene professionals who come from out of state and obtain licensure by credentials in Louisiana will be affected by having reduced continuing education requirements at the time of the first renewal of their license, saving those individuals money and time while not affecting their qualifications.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment as a result of the proposed Rule changes.

Arthur F. Hickham, Jr.  
Executive Director  
1504#097

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

Expanded Duty Dental Assistant  
(LAC 46:XXXIII.504 and 508)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to adopt and amend LAC 46:XXXIII.504 and 508.

The Louisiana state Board of Dentistry is adopting LAC 46:XXXIII.504 to clarify the requirements needed in order to become an expanded duty dental assistant. In addition, the

board is amending LAC 46:XXXIII.508 because the legislature changed the citation on the statute referenced in the Rule.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Profession**

**Chapter 5. Dental Assistants**

**§504. Confirmation of Expanded Duty Dental Assistant Certification**

A. Unless exempt in accordance with §501.C, no assistant may perform expanded duties unless the assistant has first registered with the board and received a certificate confirmation of the assistant's expanded duty dental assistant status from the board.

B. In order to receive a certificate confirmation, the assistant must provide to the board all of the following:

1. evidence of successful completion of a board approved EDDA course;
2. evidence of current approved BLS certification;
3. evidence of successful completion of a board approved radiology course;
4. completed certificate confirmation application; and
5. the appropriate fee listed in Chapter 4 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 41:

**§508. Dental Assistants Graduating from Dental Assisting Schools Approved by the Commission on Dental Accreditation**

A. Since the inception of R.S. 37:751(A)(7) defining an expanded duty dental assistant as a graduate from a dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association, many changes in technology and dental materials have taken place, and in the interest of the protection of the public those persons seeking expanded duty dental assistant status and who have graduated from CODA accredited schools, must comply with the following:

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:1778 (August 2002), amended LR 41:

**Family Impact Statement**

There will be no family impact in regard to issues set forth in R.S. 49:972.

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### Provider Impact Statement

The proposed rulemaking should not have any know or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

### Public Comment

Interested persons may submit written comments on these proposed Rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA, 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

### Public Hearing

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Expanded Duty Dental Assistant

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time cost of \$500 in FY 15 for publication of the proposed Rules in the *Louisiana Register*. There are no estimated costs or savings to local governmental units from these proposed Rule changes. The proposed Rule change amends LAC 46:XXXIII.504 to clarify requirements needed in order to become an expanded duty dental assistant and to indicate that the applicant must have completed a board approved course rather than providing a static list of board approved courses in rule as is currently done. The proposed Rule change to LAC 46:XXXIII.508 makes a technical adjustment to correct an erroneous statutory citation.

### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by the board, state or local governmental units as a result of the proposed Rule changes

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups as a result of the proposed Rule changes.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed Rule changes.

Arthur F. Hickham, Jr.  
Executive Director  
1504#098

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Dentistry

Reinstatement of Licenses Revoked for Non-Payment, Temporary Licenses, and Guidelines for Returning to Active Practice (LAC 46:XXXIII.Chapter 1)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.114, 120, and 124.

The Louisiana state Board of Dentistry is amending LAC 46:XXXIII.114 to allow a dentist or hygienist who has allowed his or her license to lapse in Louisiana but is still practicing in another state to have their license reinstated rather than having to apply for a new license. The board is also amending LAC 46:XXXIII.120 because there was an error in the Rule. In addition, the board is amending LAC 46:XXXIII.124 to clarify when remedial steps are required after a licensee has left the practice for some time.

### Title 46

## PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part XXXIII. Dental Health Profession

#### Chapter 1. General Provisions

#### §114. Reinstatement of Licenses Revoked for Non-Payment

A. The board may reinstate a Louisiana dental or dental hygiene license which was revoked due to non-renewal provided that the former licensee:

1. has submitted the fully completed required application form with all supporting data and certification of competency of good character;
2. has paid all required fees;
3. has, if deemed necessary by the board, appeared for a personal interview before the board;
4. possesses a current certificate in the American Heart Association cardiopulmonary resuscitation health care provider course, the American Red Cross professional rescue course, or their equivalent; and
5. has complied with applicable provisions of §124.

B. Regardless of the former licensee's compliance with the foregoing and the requirements listed in §124, the board may refuse to reinstate a license for any of the following:

1. any material misrepresentation or omission in the application; or

2. any disciplinary action or sanctions taken against an applicant's license in another jurisdiction; or

3. any reason listed in R.S. 37:775, 37:776, or 37:777.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998), amended LR 25:514 (March 1999), LR 41:

#### **§120. Temporary Licenses**

A. Temporary Licenses for Dentists. In order to protect the public and to avoid abuses of the exemption granted in R.S. 37:752(8), the board will not issue temporary dental licenses except to those applicants applying for a license by credentials under the provisions of R.S. 37:3651 upon their application and payment of applicable fees.

B. Temporary Licenses for Dental Hygienists. The board may issue temporary dental hygiene licenses to the following applicants:

1. ...

2. those dental hygiene license by credentials applicants who are applying under the provisions of R.S. 37:3651 upon their application and payment of applicable fees.

C. Under the provisions of R.S. 37:3651, military trained dentists or hygienists applying for a license by credentials who do not meet the practice requirements specified in §306.A.4.a-d or §706.A.4.a-b may apply for a temporary license in order to fulfill the practice requirements. Applicants must first apply for a license by credentials by meeting all other requirements listed in §306 or §706 and show their eligibility by providing the following documentation:

1. - 5. ...

D. Under the provisions of R.S. 37:3651, the spouse of an active duty military member applying for a license by credentials who does not meet the practice requirements specified in §306.A.4.a-d or §706.A.4.a-b may apply for a temporary license in order to fulfill the practice requirements. Applicants must first apply for a license by credentials by meeting all other requirements listed in §306 or §706 and show their eligibility by providing the following documentation:

D.1. - J.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 33:2652 (December 2007), LR 33:2652 (December 2007), LR 38:2771 (November 2012), LR 39:2279 (August 2013), LR 41:

#### **§124. Guidelines for Returning to Active Practice**

A. - E. ...

F. When a licensee has not practiced for one year or greater, an evaluation by a dentist and/or specialist appointed by the board shall be conducted. Varying degrees of remediation shall be determined by the board on a case-by-case basis. Areas of specific concern for general dentists are:

F.1. - I. ...

J. When a license has been inactive or a licensee has not practiced for one year or greater, the licensee will be required to successfully pass an examination administered by the board testing the licensee's knowledge of the Louisiana Dental Practice Act and the jurisprudence

affecting same. In addition, within 120 days of the reinstatement of a license or the licensee's return to active practice, the licensee will be required to complete one-half of the continuing education requirement for relicensure as described in §§1611 and 1613. The continuing education courses shall include a board-approved cardiopulmonary resuscitation course.

K. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 25:511 (March 1999), amended LR 28:1776 (August 2002), LR 28:2512 (December 2002), LR 37:3515 (December 2011), repromulgated LR 38:355 (February 2012), amended LR 38:2771 (November 2012), LR 41:

#### **Family Impact Statement**

There will be no family impact in regard to issues set forth in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Provider Impact Statement**

The proposed rulemaking should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comment**

Interested persons may submit written comments on these proposed rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the Board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within 20 days of the date of the publication of this notice.

#### **Public Hearing**

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Reinstatement of Licenses Revoked for Non-Payment, Temporary Licenses, and Guidelines for Returning to Active Practice

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time cost of \$500 in FY 15 for publication of the proposed Rules in the *Louisiana Register*. There are no estimated costs or savings to local governmental units from these proposed Rule changes. The proposed Rule changes provide modifications to the licensure procedure for practitioners whose license in Louisiana expired but who were actively practicing in another state so that the licensee may apply for reinstatement rather than Licensure by Credentials as currently required; make a technical adjustment to correct an erroneous statutory citation; and provide for licensure procedures for individuals that have not practiced dentistry or dental hygiene for one year or greater.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board estimates that approximately one dentist and three dental hygienists per year seek reinstatement of their licenses due to allowing them to lapse for any reason whatsoever, but who continued to practice dentistry or dental hygiene in another state. The proposed rule change will allow these individuals to apply for reinstatement rather than the more costly Licensure by Credentials process. Therefore, the board estimates that the proposed rule changes for LAC 46:XXXIII.114 will slightly decrease the board's revenue, but not to a significant degree. There will be no effect on revenue collections by the board for the proposed Rule changes to LAC 46 XXXIII.120. The proposed Rule changes for LAC 46 XXXIII.124 merely clarify when certain remedial steps need to be taken by a licensee who has been away from the field and will have no effect on revenue collections.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The board estimates that the proposed Rule change for LAC 46:XXXIII.114 will affect approximately one dentist and three dental hygienists per year. The proposed Rule change will allow individuals with a lapsed license in this state, but who practiced in another state during the interim, to apply for reinstatement rather than the more costly Licensure by Credentials process. There will be no costs or economic benefits associated with the proposed Rule change made to LAC 46 XXXIII.120. The proposed Rule changes for LAC 46 XXXIII.124 clarify when certain remedial steps need to be taken by a licensee who has been away from the field for one year or more, regardless of whether that individual maintained licensure. Those remedial steps may create an unspecified economic cost to a licensee as it could delay reentering active practice and may require additional examinations or interviews with the Board of Dentistry.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The board estimates the proposed Rule change for LAC 46:XXXIII.114 may allow former licensees to reinstate their licenses in a shorter period of time as long as they continued the practice of dentistry or dental hygiene in another state. Licensees will benefit from this Rule change because they may be eligible to obtain employment more quickly. There will be no effect on competition and employment associated with the proposed Rule changes made to LAC 46 XXXIII.120. The proposed Rule changes for LAC 46 XXXIII.124 may delay the

reentry into practice of individuals seeking licensure that have not practiced for one or more years.

Arthur F. Hickham, Jr.  
Executive Director  
1504#096

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Bureau of Health Services Financing and Office of Behavioral Health

Behavioral Health Services  
Statewide Management Organization  
LaCHIP Affordable Plan Benefits Administration  
(LAC 50:XXXIII.103)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to implement a coordinated behavioral health services system under the Louisiana Medicaid Program to provide services through the utilization of a statewide management organization that is responsible for the necessary administrative and operational functions to ensure adequate coordination and delivery of behavioral health services (*Louisiana Register*, Volume 38, Number 2).

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health promulgated an Emergency Rule which amended the February 2012 Rule in order to include the administration of behavioral health services covered under the LaCHIP Affordable Plan (Phase 5) (*Louisiana Register*, Volume 38, Number 12). LaCHIP Affordable Plan benefits, including behavioral health services, were administered by the Office of Group Benefits. The administration of these services was transferred to the statewide management organization under the Louisiana Behavioral Health Partnership. The department promulgated an Emergency Rule which amended the provisions of the January 1, 2013 Emergency Rule in order to revise recipient coverage under the LaCHIP Affordable Plan (*Louisiana Register*, Volume 40, Number 7). This proposed Rule is being promulgated in order to continue the provisions of the August 1, 2014 Emergency Rule.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXXIII. Behavioral Health Services

#### Subpart 1. Statewide Management Organization

#### Chapter 1. General Provisions

#### §103. Recipient Participation

A. The following Medicaid recipients shall be mandatory participants in the coordinated behavioral health system of care:

1. - 5. ...
6. children who receive foster care or adoption assistance (title IV-E), or who are in foster care or who are otherwise in an out-of-home placement;
7. title XXI SCHIP populations, including:
  - a. LaCHIP Phases 1-4; and
  - b. LaCHIP Affordable Plan (Phase 5);
8. recipients who receive both Medicare and Medicaid benefits; and
9. recipients enrolled in the LaMOMS program.
- B. ...
- C. Notwithstanding the provisions of Subsection A of this Section, the following Medicaid recipients are excluded from enrollment in the PIHP/SMO:
  1. recipients enrolled in the Medicare beneficiary programs (QMB, SLMB, QDWI and QI-1);
  2. adults who reside in an intermediate care facility for persons with intellectual disabilities (ICF/ID);
  3. recipients of refugee cash assistance;
  4. recipients enrolled in the Regular Medically Needy Program;
  5. recipients enrolled in the Tuberculosis Infected Individual Program;
  6. recipients who receive emergency services only coverage;
  7. recipients who receive services through the Program of All-Inclusive Care for the Elderly (PACE);
  8. recipients enrolled in the Low Income Subsidy Program;
  9. participants in the TAKE CHARGE Family Planning Waiver; and;
  10. recipients enrolled in the LaMOMS Program.
11. - 12. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring that families have adequate coordination and access to behavioral health services.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing health care costs to families through adequate coordination and access to behavioral health services.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, May 28, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Behavioral Health Services Statewide Management Organization LaCHIP Affordable Plan Benefits Administration**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will result in estimated state general fund programmatic savings of \$144,175 for FY 14-15, \$148,403 for FY 15-16 and \$152,855 for FY 16-17. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed Rule and the Final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.17 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will reduce federal revenue collections by approximately \$236,040 for FY 14-15, \$243,886 for FY 15-16 and \$251,203 for FY 16-17. It is anticipated that \$324 will be expended in FY 14-15 for the federal administrative expenses for promulgation of this proposed rule and the Final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.17 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the January 1, 2013 and August 1, 2014 Emergency Rules which amended the provisions governing the statewide management organization that is responsible for behavioral health services in order to include the administration of behavioral health services covered under the LaCHIP Affordable Plan (Phase 5). It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$380,863 for FY 14-15, \$392,289 for FY 15-16 and \$404,058 for FY 16-17.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1504#055

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

**Free-Standing Birthing Centers  
(LAC 50:XV.Chapters 265-271)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:XV.Chapters 265-271 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In an effort to reduce cost and facilitate access to care, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives. Coverage of labor and delivery services provided by FSBCs to low-risk pregnant women will provide a non-hospital alternative which is expected to reduce the costs associated with deliveries.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 18. Free-Standing Birthing Centers**

**Chapter 265. General Provisions**

**§26501. Purpose**

A. The Medicaid Program shall provide coverage and reimbursement for labor and delivery services rendered by free-standing birthing centers (FSBCs). Stays for delivery at the FSBC are typically less than 24 hours and the services rendered for labor and delivery are very limited, or non-existent, in comparison to delivery services rendered during inpatient hospital stays.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

**§26503. Definitions**

*Birthing Center*—a facility, for the primary purpose of performing low-risk deliveries, that is not a hospital or licensed as part of a hospital, where births are planned to occur away from the mother's usual residence following a low-risk pregnancy.

*Low-Risk Pregnancy*—a normal, uncomplicated prenatal course as determined by documentation of adequate prenatal care and the anticipation of a normal, uncomplicated labor and birth, as defined by reasonable and generally accepted criteria adopted by professional groups for maternal, fetal, and neonatal health care.

*Surrounding Hospital*—a hospital located within a 20 mile radius of the birthing center in urban areas and within a 30 mile radius of the birthing center in rural areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

**Chapter 267. Services**

**§26701. Scope of Services**

A. Free-standing birthing centers shall be reimbursed for labor and low-risk delivery services provided to Medicaid eligible pregnant women by an obstetrician, family practitioner, certified nurse midwife, or licensed midwife. FSBC services are appropriate when a normal, uncomplicated labor and birth is anticipated.

B. Services shall be provided by the attending practitioner from the time of the pregnant woman's admission through the birth and the immediate postpartum period.

C. Service Limitation. FSBC staff shall not administer general or epidural anesthesia services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

**Chapter 269. Provider Participation**

**§26901. General Provisions**

A. In order to enroll to participate in the Louisiana Medicaid Program as a provider of labor and delivery services, the FSBC must:

1. be accredited by the Commission for Accreditation of Birth Centers; and

2. be approved/certified by the Medicaid medical director.

B. The FSBC shall be located within a ground travel time distance from a general acute care hospital with which the FSBC shall maintain a contractual relationship, including a transfer agreement, that allows for an emergency caesarian delivery to begin within 30 minutes of the decision a caesarian delivery is necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

**§26903. Staffing Requirements**

A. The FSBC shall have on staff:

1. a medical director with credentials of medical doctor or doctor of osteopathy; and

2. a licensed obstetrician, family practitioner, certified nurse midwife, or licensed midwife who shall attend each

woman in labor from the time of admission through birth and the immediate postpartum period.

a. A licensed midwife providing birthing services within the FSBC must:

i. have passed the national certification exam through the North American Registry of Midwives; and

ii. hold a current, unrestricted state license with the Louisiana State Board of Medical Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

## **Chapter 271. Reimbursement**

### **§27101. Reimbursement Methodology**

A. Effective for dates of service on or after July 20, 2015, a FSBC shall be reimbursed a one-time payment for labor and delivery services at a rate equal to 90 percent of the average per diem rates of surrounding hospitals providing the same services.

1. Attending physicians shall be reimbursed for birthing services according to the published fee schedule rate for physician services rendered in the Professional Services Program.

2. Certified nurse midwives providing birthing services within a FSBC shall be reimbursed at 80 percent of the published fee schedule rate for physician services rendered in the Professional Services Program.

3. Licensed midwives providing birthing services within a FSBC shall be reimbursed at 75 percent of the published fee schedule rate for physician services in the Professional Services Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by allowing recipient access to birthing centers for labor and delivery services that may promote faster recovery, have less restrictions, and be less disruptive to family routines.

### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families who incur costs associated with hospital labor and delivery, extended hospital stays, and prolonged recovery.

## **Provider Impact Statement**

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

## **Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

## **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, May 28, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Free-Standing Birthing Centers**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 14-15, but will result in estimated net state general fund programmatic savings of \$10,133 for FY 15-16 and \$10,235 for FY 16-17 since free-standing birthing center reimbursements are less than hospital reimbursements for deliveries. The potential savings associated with free-standing birthing centers will not be realized until FY 15-16 due to the timeliness of provider enrollment and claims, and the targeted group eligible date for services. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 14-15, but will reduce federal revenue collections by approximately \$16,653 for FY 15-16 and \$16,819 for FY 16-17. It is anticipated that \$432 will be collected in FY 14-15 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal

Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule adopts provisions to establish coverage and reimbursement for labor and delivery services provided to Medicaid eligible women by free-standing birthing centers (FSBCs), including reimbursement for services rendered by licensed midwives. It is anticipated that implementation of this proposed rule will reduce expenditures in the Medicaid program by approximately \$26,786 for FY 15-16 and \$27,054 for FY 16-17 since free-standing birthing center reimbursements are less than hospital reimbursements for deliveries.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1504#056

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing  
and**

**Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
Children's Choice Waiver  
Electronic Visit Verification  
(LAC 50:XXI.11531)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to adopt LAC 50:XXI.11531 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, through collaborative efforts, provide supplemental supports to children with developmental disabilities through the Children's Choice Waiver program.

The department now proposes to amend the provisions governing the Children's Choice Waiver in order to adopt requirements which mandate that providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part XXI. Home and Community-Based Services  
Waivers**

**Subpart 9. Children's Choice**

**Chapter 115. Provider Participation Requirements**

**Subchapter B. Provider Requirements**

**§11531. Electronic Visit Verification**

A. Effective for dates of service on or after August 1, 2015, Children's Choice Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the Children's Choice Waiver provider manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it will provide improved accuracy and monitoring of home and community-based services for individuals with long-term disabilities.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by allowing working family members to maintain stable employment due to the improved delivery of home and community-based services.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.



### Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

### Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, May 28, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Home and Community-Based Services Waivers—Children’s Choice Waiver Electronic Visit Verification

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 14-15, but will result in estimated net state general fund programmatic savings of \$253,040 for FY 15-16 and \$260,632 for FY 16-17. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 14-15 for the state’s administrative expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 14-15, but will reduce federal revenue collections by approximately \$415,847 for FY 15-16 and \$428,322 for FY 16-17. It is anticipated that \$216 will be collected in FY 14-15 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the Children’s Choice Waiver in order to adopt requirements which mandate that providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services. It is anticipated that implementation of this proposed rule will reduce expenditures in the Medicaid Program by approximately \$668,887 for FY 15-16 and \$688,954 for FY 16-17.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1504#057

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers  
New Opportunities Waiver  
Electronic Visit Verification  
(LAC 50:XXI.Chapter 142)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to adopt LAC 50:XXI.Chapter 142 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, through collaborative efforts, provide enhanced long-term services and supports to individuals with developmental disabilities through the New Opportunities Waiver (NOW) program.

The department now proposes to amend the provisions governing the NOW in order to adopt requirements which mandate that providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

#### Subpart 11. New Opportunities Waiver Chapter 142. Provider Participation Requirements §14201. Electronic Visit Verification

A. Effective for dates of service on or after August 1, 2015, New Opportunities Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the NOW provider manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by providing improved accuracy and monitoring of home and community-based services for individuals with long-term disabilities.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by allowing working family members to maintain stable employment due to the improved delivery of home and community-based services.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, May 28, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Home and Community-Based Services Waivers—New Opportunities Waiver Electronic Visit Verification**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than

the cost of promulgation for FY 14-15, but will result in estimated net state general fund programmatic savings of \$7,979,277 for FY 15-16 and \$8,218,656 for FY 16-17. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 14-15, but will reduce federal revenue collections by approximately \$13,113,182 for FY 15-16 and \$13,506,577 for FY 16-17. It is anticipated that \$216 will be collected in FY 14-15 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule amends the provisions governing the New Opportunities Waiver (NOW) in order to adopt requirements which mandate that providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing system for certain home and community-based services. It is anticipated that implementation of this proposed rule will reduce expenditures in the Medicaid Program by approximately \$21,092,459 for FY 15-16 and \$21,725,233 for FY 16-17.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1504#058

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Bureau of Health Services Financing and**

#### **Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
Residential Options Waiver  
Electronic Visit Verification  
(LAC 50:XXI.16705)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to adopt LAC 50:XXI.16705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, through collaborative efforts, provide enhanced long-term services and supports to individuals with developmental disabilities through the Residential Options Waiver (ROW) program.

The department now proposes to amend the provisions governing the ROW in order to adopt requirements which mandate that providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers**

#### **Subpart 13. Residential Options Waiver**

#### **Chapter 167. Provider Participation**

#### **§16705. Electronic Visit Verification**

A. Effective for dates of service on or after July 1, 2015, Residential Options Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the ROW provider manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by providing improved accuracy and monitoring of home and community-based services for individuals with long-term disabilities.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, and family poverty in relation to individual or community asset development as described in R.S. 49:973 by allowing working family members to maintain stable employment due to the improved delivery of home and community-based services.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will

have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, May 28, 2015 at 9:30 a.m. in Room 173, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Home and Community-Based Services Waivers—Residential Options Waiver Electronic Visit Verification**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 14-15, but will result in estimated net state general fund programmatic savings of \$3,005 for FY 15-16 and \$3,095 for FY 16-17. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 14-15, but will reduce federal revenue collections by approximately \$4,939 for FY 15-16 and \$5,087 for FY 16-17. It is anticipated that \$216 will be collected in FY 14-15 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule amends the provisions governing the Residential Options Waiver in order to adopt requirements which mandate that providers must utilize the electronic visit verification (EVV) system designated by the department for

automated scheduling, time and attendance tracking, and billing for home and community-based services. It is anticipated that implementation of this proposed rule will reduce expenditures in the Medicaid Program by approximately \$7,944 for FY 15-16 and \$8,182 for FY 16-17.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1504#059

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing  
and  
Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
Supports Waiver  
Electronic Visit Verification  
(LAC 50:XXI.5903)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to adopt LAC 50:XXI.5903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, through collaborative efforts, provide enhanced long-term services and supports to individuals with developmental disabilities through the Supports Waiver program.

The department now proposes to amend the provisions governing the Supports Waiver in order to adopt requirements which mandate that providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part XXI. Home and Community Based Services  
Waivers**

**Subpart 5. Supports Waiver**

**Chapter 59. Provider Participation**

**§5903. Electronic Visit Verification**

A. Effective for dates of service on or after August 1, 2015, Supports Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the Supports Waiver provider manual.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by providing improved accuracy and monitoring of home and community-based services participants.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by allowing working family members to maintain stable employment due to the improved delivery of home and community-based services.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

**Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, May 28, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home and Community-Based  
Services Waivers—Supports Waiver  
Electronic Visit Verification**

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Home Health Program  
Rehabilitation Services  
Reimbursement Rate Increase  
(LAC 50:XIII.Chapter 9)

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 14-15, but will result in estimated net state general fund programmatic savings of \$6,870 for FY 15-16 and \$7,077 for FY 16-17. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 14-15, but will reduce federal revenue collections by approximately \$11,291 for FY 15-16 and \$11,629 for FY 16-17. It is anticipated that \$216 will be collected in FY 14-15 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This proposed Rule amends the provisions governing the Supports Waiver in order to adopt requirements which mandate that providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services. It is anticipated that implementation of this proposed rule will reduce expenditures in the Medicaid program for Supports Waiver services by approximately \$18,161 for FY 15-16 and \$18,706 for FY 16-17.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This rule has no known effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1504#060

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal the provisions of the June 20, 1997, May 20, 2001, and the May 20, 2004 Rules governing rehabilitation services, and to adopt LAC 50:XIII.Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Medicaid reimbursement for rehabilitation services covered in the Home Health Program. In compliance with a court order from the *Melanie Chisholm, et al vs. Kathy Kliebert* class action litigation, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing rehabilitation services covered under the Home Health Program in order to increase the reimbursement rates for physical and occupational therapy services for recipients under the age of 21, and to discontinue the automatic enhanced rate adjustment for these services (*Louisiana Register*, Volume 40, Number 2). This Emergency Rule also repealed the June 20, 1997, May 20, 2001, and the May 20, 2004 Rules governing rehabilitation services covered in the Home Health Program, and revised and repromulgated the provisions in a codified format for inclusion in the *Louisiana Administrative Code*. This proposed Rule is being promulgated to continue the provisions of the February 13, 2014 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XIII. Home Health**

**Subpart 1. Home Health Services**

**Chapter 9. Rehabilitation Services**

**§901. General Provisions**

A. The Medicaid Program provides coverage for rehabilitation services rendered in the Home Health Program. Home Health rehabilitation services include:

1. physical therapy;
2. occupational therapy; and
3. speech/language therapy.

B. All home health rehabilitation services must be medically necessary and prior authorized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41: §903. **Reserved.**

#### **§905. Reimbursement Methodology**

A. The Medicaid Program provides reimbursement for physical therapy, occupational therapy and speech/language therapy covered under the Home Health Program.

B. Effective for dates of service on or after February 13, 2014, reimbursement for physical and occupational therapy services shall be 85 percent of the 2013 Medicare published rate. There shall be no automatic enhanced rate adjustment for physical and occupational therapy services.

C. Speech/language therapy services shall continue to be reimbursed at the flat fee in place as of February 13, 2014 and in accordance with the Medicaid published fee schedule for speech/language therapy services provided in the Home Health Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by providing improved access to care for recipients seeking physical and occupational therapy services rendered by home health providers.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the same services they already render.

#### **Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The

deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, May 28, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Home Health Program**

#### **Rehabilitation Services—Reimbursement Rate Increase**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic costs of \$2,648 for FY 14-15, \$2,442 for FY 15-16 and \$2,515 for FY 16-17. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$4,159 for FY 14-15, \$4,013 for FY 15-16 and \$4,133 for FY 16-17. It is anticipated that \$270 will be expended in FY 14-15 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.17 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule continues the provisions of the February 13, 2014 Emergency Rule which amended the provisions governing rehabilitation services covered under the Home Health Program in order to increase the reimbursement rates for physical and occupational therapy services for recipients under the age of 21, and to discontinue the automatic enhanced rate adjustment for these services. It is anticipated that implementation of this proposed rule will increase program expenditures in the Medicaid program for home health rehabilitation services by approximately \$6,267 for FY 14-15, \$6,455 for FY 15-16 and \$6,648 for FY 16-17.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a positive effect on employment as it will increase the

payments made to home health providers. The increase in payments may improve the financial standing of providers and could possibly cause an increase in employment opportunities.

J. Ruth Kennedy  
Medicaid Director  
1504#061

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services

#### Nursing Facilities—Standards for Payment Level of Care Determinations (LAC 50:II.10156)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:II.10156 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the standards for payment for nursing facilities to clarify level of care determinations (*Louisiana Register*, Volume 39, Number 6). The department promulgated an Emergency Rule which amended the provisions governing level of care pathways in order to clarify the provisions of the June 20, 2013 Rule (*Louisiana Register*, Volume 40, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 20, 2014 Emergency Rule.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part II. Medical Assistance Program

#### Subpart 3. Standards for Payment

#### Chapter 101. Standards for Payment for Nursing Facilities

#### Subchapter G. Levels of Care

#### §10156. Level of Care Pathways

A. - B. ...

C. The level of care pathways elicit specific information, within a specified look-back period, regarding the individual's:

1. ...

2. receipt of assistance with activities of daily living (ADL);

C.3. - E.2.m. ...

F. Physician Involvement Pathway

1. - 2. ...

3. In order for an individual to be approved under the physician involvement pathway, the individual must have one day of doctor visits and at least four new order changes within the last 14 days or:

a. at least two days of doctor visits and at least two new order changes within the last 14 days; and

F.3.b. - I.1.d. ...

2. In order for an individual to be approved under the behavior pathway, the individual must have:

a. exhibited any one of the following behaviors four to six days of the screening tool's seven-day look-back period, but less than daily:

i. - ii. ...

iii. physically abusive;

iv. socially inappropriate or disruptive; or

b. exhibited any one of the following behaviors daily during the screening tool's seven-day look-back period:

i. - iii. ...

iv. socially inappropriate or disruptive; or

c. experienced delusions or hallucinations within the screening tool's seven-day look-back period that impacted his/her ability to live independently in the community; or

d. exhibited any one of the following behaviors during the assessment tool's three-day look-back period and behavior(s) were not easily altered:

i. wandering;

ii. verbally abusive;

iii. physically abusive;

iv. socially inappropriate or disruptive; or

e. experienced delusions or hallucinations within the assessment tool's three-day look-back period that impacted his/her ability to live independently in the community.

J. - J.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:342 (January 2011), amended LR 39:1471 (June 2013), LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

#### Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service,

no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, May 28, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Nursing Facilities Standards for Payment Level of Care Determinations**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 14-15. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 14-15. It is anticipated that \$270 will be collected in FY 14-15 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule continues the provisions of the July 20, 2014 Emergency Rule which amended the provisions governing the nursing facility standards for payment in order to clarify the level of care pathways provisions. It is anticipated that implementation of this proposed rule will not have economic cost or benefits to nursing facilities for FY 14-15, FY 15-16, and FY 16-17.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1504#062

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Health and Hospitals Bureau of Health Services Financing**

Professional Services Program  
Immunizations  
Reimbursement Methodology  
(LAC 50:IX.8305 and 8505)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:IX.8305 and §8505 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health (OPH) adopted provisions to establish Medicaid payment of uncompensated care costs for the administration of vaccines rendered by OPH to Medicaid eligible recipients (*Louisiana Register*, Volume 39, Number 1).

The Patient Protection and Affordable Care Act (PPACA) requires states to reimburse certain primary care services, including the administration of specified immunizations (if they were covered), at an increased rate. In compliance with PPACA and federal regulations, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for Medicaid payments to providers for the administration of certain vaccines to children to increase the reimbursement rates (*Louisiana Register*, Volume 39, Number 1). The provisions governing an increase in rates for the administration of certain vaccines to adults were inadvertently omitted from the January 1, 2013 Emergency Rule. The department promulgated an Emergency Rule which amended the January 1, 2013 Emergency Rule in order to incorporate provisions governing an increase in rates for the administration of certain vaccines to adults and to revise the payment methodology (*Louisiana Register*, Volume 39, Number 2). This proposed Rule is being promulgated to continue the provisions of the February 20, 2013 Emergency Rule.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part IX. Professional Services Program**

##### **Subpart 7. Immunizations**

#### **Chapter 83. Children's Immunizations**

##### **§8305. Reimbursement Methodology**

A. - C.3.a. ...

D. Effective for dates of service on or after January 1, 2013 through December 31, 2014, certain vaccine administration services shall be reimbursed at payment rates consistent with the methodologies that apply to such services and physicians under part B of title XVIII of the Social Security Act (Medicare) and the Vaccines for Children (VFC) Program.

1. The following vaccine service codes, when covered by the Medicaid Program and provided under the VFC Program, shall be reimbursed at an increased rate:



- a. 90471, 90472, 90473 and 90474; or
- b. their successor codes as specified by the U.S. Department of Health and Human Services.

2. **Qualifying Criteria.** Reimbursement shall be limited to specified services furnished by a physician, either a doctor of osteopathy or a medical doctor or under the personal supervision of a physician, who attests to a specialty or subspecialty designation in family medicine, general internal medicine or pediatrics, and also attests to meeting one or more of the following criteria:

- a. certification as a specialist or subspecialist within family medicine, general internal medicine or pediatric medicine by the American Board of Medical Specialists (ABMS), the American Board of Physician Specialties (ABPS), or the American Osteopathic Association (AOA); or

- b. specified evaluation and management and vaccine services that equal at least 60 percent of total Medicaid codes paid during the most recently completed calendar year, or for newly eligible physicians the prior month.

3. **Payment Methodology.** For vaccine administration services provided under the Vaccines for Children Program in calendar years 2013 and 2014, the reimbursement shall be the lesser of the:

- a. regional maximum administration fee; or
- b. Medicare fee schedule rate in calendar years 2013 or 2014 that reflects the mean value over all parishes (counties) of the rate for each of the specified code(s) or, if greater, the payment rates that would be applicable in those years using the calendar year 2009 Medicare physician fee schedule conversion factor multiplied by the calendar year 2013 and 2014 relative value units in accordance with 42 CFR 447.405 as approved by the Centers for Medicare and Medicaid Services.

4. The department shall make a payment to the provider for the difference between the Medicaid rate and the increased rate, if any.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:71 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:96 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

## **Chapter 85. Adult Immunizations**

### **§8505. Reimbursement Methodology**

A. - B.3.a. ...

C. Effective for dates of service on or after January 1, 2013 through December 31, 2014, certain vaccine administration services shall be reimbursed at payment rates consistent with the methodology that applies to such services and physicians under Part B of Title XVIII of the Social Security Act (Medicare).

1. The following vaccine service codes, when covered by the Medicaid Program, shall be reimbursed at an increased rate:

- a. 90471, 90472, 90473 and 90474; or
- b. their successor codes as specified by the U.S. Department of Health and Human Services.

2. **Qualifying Criteria.** Reimbursement shall be limited to specified services furnished by a physician, either a doctor of osteopathy or a medical doctor or under the personal supervision of a physician, who attests to a specialty or subspecialty designation in family medicine, general internal medicine or pediatrics, and also attests to meeting one or more of the following criteria:

- a. certification as a specialist or subspecialist within family medicine, general internal medicine or pediatric medicine by the American Board of Medical Specialists (ABMS), the American Board of Physician Specialties (ABPS), or the American Osteopathic Association (AOA); or

- b. specified evaluation and management and vaccine services that equal at least 60 percent of total Medicaid codes paid during the most recently completed calendar year, or for newly eligible physicians the prior month.

3. **Payment Methodology.** For vaccine administration services provided in calendar years 2013 and 2014, the reimbursement shall be the lesser of the:

- a. Medicare fee schedule rate in calendar years 2013 or 2014 that reflects the mean value over all parishes (counties) of the rate for each of the specified code(s) or, if greater, the payment rates that would be applicable in those years using the calendar year 2009 Medicare physician fee schedule conversion factor multiplied by the calendar year 2013 and 2014 relative value units in accordance with 42 CFR 447.405 as approved by the Centers for Medicare and Medicaid Services; or

- b. provider's actual billed charges for the service.

4. The department shall make a payment to the provider for the difference between the Medicaid rate and the increased rate, if any.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by increasing access to immunization services.

### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families for cost associated with immunizations.

### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will

have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the same services they already render.

#### **Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, May 28, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Professional Services Program Immunizations—Reimbursement Methodology**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will result in estimated state general fund programmatic costs of \$2,015,545 for FY 14-15 only. There will be no fiscal impact for FY 15-16 and FY 16-17 since the payments ended on December 31, 2014. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed Rule and the Final Rule. The number reflected above is based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$3,296,634 for FY 14-15 only. There will be no impact on revenue collections for FY 15-16 and FY 16-17. It is anticipated that \$432 will be expended in FY 14-15 for the federal administrative expenses for promulgation of this proposed rule and the Final Rule. The number reflected above is based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule continues the provisions of the January 1, 2013 and February 20, 2013 Emergency Rules which amended the provisions governing the reimbursement methodology for Medicaid payments to providers for the administration of certain vaccines to increase the

reimbursement rates until December 31, 2014 pursuant to the Patient Protection and Affordable Care Act (PPACA). It is anticipated that implementation of this proposed rule will increase program expenditures in the Professional Services Program by approximately \$5,311,315 for FY 14-15 only. There will be no fiscal impact for FY 15-16 and FY 16-17.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a positive effect on employment as it will increase the payments made to providers. The increase in payments may improve the financial standing of providers and could possibly cause an increase in employment opportunities.

J. Ruth Kennedy  
Medicaid Director  
1504#063

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

Professional Services Program  
Physician Services  
Reimbursement Methodology  
(LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates for obstetric delivery services (*Louisiana Register*, Volume 37, Number 3).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to reduce the reimbursement rates and discontinue reimbursement for certain procedures (*Louisiana Register*, Volume 38, Number 7). The department subsequently amended the provisions of the July 1, 2012 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner (*Louisiana Register*, Volume 38, Number 10).

The Patient Protection and Affordable Care Act (PPACA) requires states to reimburse certain primary care services at an increased rate. In compliance with PPACA and federal regulations, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services in order to increase the reimbursement rates (*Louisiana Register*, Volume 39, Number 1).

The department promulgated an Emergency Rule which amended the provisions of the January 1, 2013 Emergency Rule in order to revise the payment methodology and to

correct the formatting of these provisions as a result of the promulgation of the October 20, 2012 Emergency Rule governing the reimbursement methodology for physician services (*Louisiana Register*, Volume 39, Number 2). The department subsequently promulgated an Emergency Rule which amended the provisions of the February 20, 2013 Emergency Rule in order to revise the formatting of these provisions. This will ensure that these provisions are appropriately incorporated into the *Louisiana Administrative Code* in a clear and concise manner (*Louisiana Register*, Volume 40, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 20, 2014 Emergency Rule.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part IX. Professional Services Program**

##### **Subpart 15. Reimbursement**

##### **Chapter 151. Reimbursement Methodology**

##### **Subchapter B. Physician Services**

##### **§15113. Reimbursement Methodology**

A. - I.3. ...

J. Effective for dates of service on or after January 1, 2013 through December 31, 2014, certain physician services shall be reimbursed at payment rates consistent with the methodology that applies to such services and physicians under part B of title XVIII of the Social Security Act (Medicare).

1. The following physician service codes, when covered by the Medicaid Program, shall be reimbursed at an increased rate:

a. evaluation and management codes 99201 through 99499; or

b. their successor codes as specified by the U.S. Department of Health and Human Services.

2. Qualifying Criteria. Reimbursement shall be limited to specified services furnished by or under the personal supervision of a physician, either a doctor of osteopathy or a medical doctor, who attests to a specialty or subspecialty designation in family medicine, general internal medicine or pediatrics, and who also attests to meeting one or more of the following criteria:

a. certification as a specialist or subspecialist in family medicine, general internal medicine or pediatric medicine by the American Board of Medical Specialists (ABMS), the American Board of Physician Specialties (ABPS), or the American Osteopathic Association (AOA); or

b. specified evaluation and management and vaccine services that equal at least 60 percent of total Medicaid codes paid during the most recently completed calendar year, or for newly eligible physicians the prior month.

3. Payment Methodology. For primary care services provided in calendar years 2013 and 2014, the reimbursement shall be the lesser of the:

a. Medicare Part B fee schedule rate in calendar years 2013 or 2014 that is applicable to the place of service and reflects the mean value over all parishes (counties) of the rate for each of the specified or, if greater, the payment rates that would be applicable in those years using the calendar year 2009 Medicare physician fee schedule conversion factor multiplied by the calendar year 2013 and

2014 relative value units in accordance with 42 CFR 447.405. If there is no applicable rate established by Medicare, the reimbursement shall be the rate specified in a fee schedule established and announced by the Centers for Medicare and Medicaid Services (CMS); or

b. provider's actual billed charge for the service.

4. The department shall make payment to the provider for the difference between the Medicaid rate and the increased rate, if any.

K. ...

L. - L.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:3300, 3301 (December 2013), LR 41:541 (March 2015), LR 41:

##### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by increasing access to primary care services.

##### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families for cost associated with primary care services.

##### **Provider Impact Statement**

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the same services they already render.

##### **Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

##### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, May 28, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Professional Services Program  
Physician Services—Reimbursement Methodology**

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

State Children's Health Insurance Program  
LaCHIP Affordable Plan Benefits Administration  
(LAC 50:III.Chapter 205)

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic costs of \$9,321,873 for FY 14-15 only. There will be no fiscal impact for FY 15-16 and FY 16-17 since the payments expired on December 31, 2014. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$15,247,926 for FY 14-15 only. There will be no fiscal impact for FY 15-16 and FY 16-17 since the payments expired on December 31, 2014. It is anticipated that \$378 will be expended in FY 14-15 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15.

The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This proposed Rule continues the provisions of the September 20, 2014 Emergency Rule which amended the provisions governing the reimbursement methodology for physician services in order to increase the reimbursement rates until December 31, 2014, revise the payment methodology, and to correct the formatting of these provisions. It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid program for physician services by approximately \$24,569,043 for FY 14-15 only. There will be no fiscal impact for FY 15-16 and FY 16-17 since the payments expired on December 31, 2014.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a positive effect on employment as it will increase the payments made to providers. The increase in payments may improve the financial standing of providers and could possibly cause an increase in employment opportunities.

J. Ruth Kennedy  
Medicaid Director  
1504#064

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:III.20501 and §§20505-20507 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to implement phase five of the Louisiana Children's Health Insurance Program (LaCHIP) as a stand-alone program under Title XXI provisions to provide coverage to uninsured children whose family income is from 200 percent up to 250 percent of the federal poverty level (*Louisiana Register*, Volume 34, Number 4).

The department promulgated an Emergency Rule which amended the April 2008 Rule in order to transfer the administration of health care services covered under the LaCHIP Affordable Plan (Phase 5) to the health plans participating in the BAYOU HEALTH Program, and the administration of behavioral health services to the Statewide Health Partnership in the Louisiana Behavioral Health Partnership (*Louisiana Register*, Volume 38, Number 12).

This Emergency Rule also revised the cost sharing provisions in order to remove the co-payment, co-insurance, and deductible requirements since they will no longer be attributable to the LaCHIP Affordable Plan Program. Only the monthly premium per household shall apply. This proposed Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part III. Eligibility**

**Subpart 11. State Children's Health Insurance Program  
Chapter 205. Louisiana Children's Health Insurance  
Program (LaCHIP)—Phase V**

**§20501. General Provisions**

A. ...

B. The department retains the oversight and management of this LaCHIP expansion with health care benefits provided through the BAYOU HEALTH Program and behavioral health services provided through the Louisiana Behavioral Health Partnership (LBHP).

C. Phase five is a cost-sharing program. Families who are enrolled in phase five of LaCHIP will be responsible for paying premiums.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

#### **§20505. Covered Services**

A. Children covered in phase five of the LaCHIP expansion shall receive health care benefits through an array of covered services offered by health plans participating in the BAYOU HEALTH Program, and behavioral health services administered by the Statewide Management Organization under the LBHP. The following services shall be included:

1. - 8. ...
9. inpatient and outpatient behavioral health services other than those listed in any other provisions of §20503:
- 9.a. - 10. ...
11. nursing care services;
  - a. Repealed.
12. ...
13. inpatient substance abuse treatment services, including residential substance abuse treatment services:
  - a. inpatient admissions must be pre-certified. Emergency services are covered if, upon review, presentation is determined to be life-threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;
  - b. ...
14. outpatient substance abuse treatment services:
  - a. all services must be pre-certified;
  - b. ...
15. case management services;
  - a. Repealed.
16. - 16.a. ...
17. hospice care:
  - a. Repealed.
18. medical transportation; and
  - a. Repealed.
19. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

#### **§20507. Cost Sharing**

A. Phase five of LaCHIP is a cost-sharing program with premiums limited to no more than 5 percent of the family's annual income.

B. The following cost-sharing criteria shall apply.

1. - 1.a. ...
2. - 3.e. Repealed.

C. Non-payment of premiums may result in disenrollment from LaCHIP. Recipients shall be allowed a 60-day grace period prior to disenrollment for non-payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:661 (April 2008), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring that families have adequate coordination and access to health care services.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing health care costs to families through adequate coordination and access to health care services.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, May 28, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: State Children's Health**

#### **Insurance Program**

#### **LaCHIP Affordable Plan Benefits Administration**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$54,153 for FY 14-15, \$55,989 for FY 15-16 and \$57,669 for FY 16-17. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$150,498 for FY 14-15, \$155,691 for FY 15-16 and \$160,362 for FY 16-17. It is anticipated that \$432 will be expended in FY 14-15 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the January 1, 2013 Emergency Rule which amended the provisions governing the Louisiana Children's Health Insurance Program (LaCHIP) in order to transfer the administration of health care services covered under the LaCHIP Affordable Plan (Phase 5) to the health plans participating in the BAYOU HEALTH Program, and also revised the cost sharing provisions in order to remove the co-payment, co-insurance, and deductible requirements. It is anticipated that implementation of this proposed rule will reduce program expenditures in LaCHIP by approximately \$205,515 for FY 14-15, \$211,680 for FY 15-16 and \$218,031 for FY 16-17.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition.

J. Ruth Kennedy  
Medicaid Director  
1504#065

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

**State Children's Health Insurance Program  
Modified Adjusted Gross Income  
(LAC 50:III.20103)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:III.20103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Section 1004(a)(2) of the Patient Protection and Affordable Care Act (ACA) of 2010 and Section 36B (d)(2)(B) of the *Internal Revenue Code* mandate that Medicaid eligibility use the modified adjusted gross income (MAGI) methodology for eligibility determinations for certain eligibility groups. In compliance with the ACA and *Internal Revenue Code*, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing Medicaid eligibility to adopt the MAGI methodology for eligibility groups covered under Title XIX (Medicaid) and Title XXI (Children's Health Insurance Program) of the Social Security Act (*Louisiana Register*, Volume 40, Number 1). The department also adopted provisions which allowed qualified hospitals to make determinations of presumptive eligibility for individuals who are not currently enrolled in Medicaid.

The department promulgated an Emergency Rule which amended the provisions of the December 31, 2013 Emergency Rule in order to make technical revisions to ensure that these provisions are appropriately promulgated in a clear and concise manner (*Louisiana Register*, Volume 40, Number 4). The provisions governing the MAGI eligibility changes for the Louisiana Children's Health Insurance Program (LaCHIP) were repromulgated independent of the provisions governing the Title XIX eligibility groups. This proposed Rule is being promulgated to continue the provisions of the April 20, 2014 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part III. Eligibility**

**Subpart 11. State Children's Health Insurance Program**

**Chapter 201. Louisiana Children's Health Insurance**

**Program (LaCHIP)—Phases 1-3**

**§20103. Eligibility Criteria**

A. - A.1....

2. are from families with income at or below 217 percent of the federal poverty level; and

A.3. - D.1.f. ...

E. Effective December 31, 2013 eligibility for LaCHIP shall be determined by modified adjusted gross income (MAGI) methodology in accordance with section 1004(a)(2) of the Patient Protection and Affordable Care Act (ACA) of 2010 and section 36B(d)(2)(B) of the *Internal Revenue Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:659 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by reducing the financial burden for health care costs for certain families who will now meet the new income standards.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden for health care costs for certain families who will now meet the new income standards.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same

level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, May 28, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: State Children's Health Insurance Program Modified Adjusted Gross Income

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule may result in an increase in programmatic expenditures in the Medicaid Program by an indeterminable amount for FY 14-15, FY 15-16, and FY 16-17. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have an increase in federal revenue collections by an indeterminable amount for FY 14-15, FY 15-16, and FY 16-17. It is anticipated that \$216 will be collected in FY 14-15 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the December 31, 2013 and April 20, 2014 Emergency Rules which amended the provisions governing Medicaid eligibility to adopt the Modified Adjusted Gross Income (MAGI) eligibility methodology in the Louisiana Children's Health Insurance Program (LaCHIP). It is anticipated that implementation of this proposed rule may increase Medicaid costs by an indeterminable amount for FY 14-15, FY 15-16, and FY 16-17 as the potential change in enrollment is unknown but is expected to be nominal.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1504#066

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health and Hospitals Bureau of Health Services Financing

Therapeutic Group Homes  
Licensing Standards  
(LAC 48:I.Chapter 62)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 62 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2009. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In compliance with the directives of R.S. 40:2009, the Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions governing the minimum licensing standards for therapeutic group homes(TGH)in order to prepare for the transition to a comprehensive system of delivery for behavioral health services in the state (*Louisiana Register*, Volume 38, Number 2).

The department promulgated an Emergency Rule which amended the provisions governing TGH licensing standards to revise the current TGH licensing regulations (*Louisiana Register*, Volume 40, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 20, 2014 Emergency Rule.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing

#### Chapter 62. Therapeutic Group Homes

#### Subchapter A. General Provisions

#### §6203. Definitions

*Active Treatment*—implementation of a professionally developed and supervised comprehensive treatment plan that is developed no later than seven days after admission and designed to achieve the client's discharge from inpatient status within the shortest practicable time. To be considered active treatment, the services must contribute to the achievement of the goals listed in the comprehensive treatment plan. Tutoring, attending school, and transportation are not considered active treatment. Recreational activities can be considered active treatment when such activities are community based, structured and integrated within the surrounding community.

\* \* \*

*Therapeutic Group Home (TGH)*—a facility that provides community-based residential services to clients under the age of 21 in a home-like setting of no greater than 10 beds under the supervision and oversight of a psychiatrist or psychologist.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:402 (February 2012), amended LR 41:

## **Subchapter B. Licensing**

### **§6213. Changes in Licensee Information or Personnel**

A. - C.1. ...

2. A TGH that is under provisional licensure, license revocation, or denial of license renewal may not undergo a CHOW.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:405 (February 2012), amended LR 41:

### **§6219. Licensing Surveys**

A. - D. ...

E. If deficiencies have been cited during a licensing survey, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

1. ...
2. directed plans of correction;
3. provisional licensure;
4. denial of renewal; and/or
5. license revocations.

F. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:406 (February 2012), amended LR 41:

### **§6221. Complaint Surveys**

A. - J.1. ...

a. The offer of the administrative appeal, if appropriate, as determined by the Health Standards Section, shall be included in the notification letter of the results of the informal reconsideration results. The right to administrative appeal shall only be deemed appropriate and thereby afforded upon completion of the informal reconsideration.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:407 (February 2012), amended LR 41:

### **§6223. Statement of Deficiencies**

A. - C.1. ...

2. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section and will be considered timely if received by HSS within 10 calendar days of the provider's receipt of the statement of deficiencies.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:407 (February 2012), amended LR 41:

### **§6225. Cessation of Business**

A. Except as provided in §6295 of this Chapter, a license shall be immediately null and void if a TGH ceases to operate.

1. - 3. Repealed.

B. A cessation of business is deemed to be effective the date on which the TGH stopped offering or providing services to the community.

C. Upon the cessation of business, the provider shall immediately return the original license to the department.

D. Cessation of business is deemed to be a voluntary action on the part of the provider. The provider does not have a right to appeal a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the TGH shall:

1. give 30 days' advance written notice to:

- a. HSS;
- b. the prescribing physician; and
- c. the parent(s) or legal guardian or legal representative of each client; and

2. provide for an orderly discharge and transition of all of the clients in the facility.

F. In addition to the advance notice of voluntary closure, the TGH shall submit a written plan for the disposition of client medical records for approval by the department. The plan shall include the following:

1. the effective date of the voluntary closure;
2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed provider's clients' medical records;
3. an appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the client or authorized representative, upon presentation of proper authorization(s); and

b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and

4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing provider, at least 15 days prior to the effective date of closure.

G. If a TGH fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning a TGH for a period of two years.

H. Once the TGH has ceased doing business, the TGH shall not provide services until the provider has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:407 (February 2012), amended LR 41:

### **§6227. Denial of License, Revocation of License, or Denial of License Renewal**

A. - C.3. ...

D. Revocation of License or Denial of License Renewal. A TGH license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. - 15. ...

16. failure to repay an identified overpayment to the department or failure to enter into a payment agreement to repay such overpayment;

17. failure to timely pay outstanding fees, fines, sanctions, or other debts owed to the department; or

18. failure to maintain accreditation, or for a new TGH that has applied for accreditation, the failure to obtain accreditation.

19. Repealed.



E. If a TGH license is revoked or renewal is denied or the license is surrendered in lieu of an adverse action, any owner, officer, member, director, manager, or administrator of such TGH may be prohibited from opening, managing, directing, operating, or owning another TGH for a period of two years from the date of the final disposition of the revocation, denial action, or surrender.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:408 (February 2012), amended LR 41:

#### **§6229. Notice and Appeal of License Denial, License Revocation, License Non-Renewal, and Appeal of Provisional License**

A. - B. ...

1. The TGH provider shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration must be in writing and shall be forwarded to the Health Standards Section.

B.2. - D. ...

E. If a timely administrative appeal has been filed by the provider on a license denial, license non-renewal, or license revocation, the DAL or its successor shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

E.1. - G2. ...

3. The provider shall request the informal reconsideration in writing, which shall be received by the HSS within five days of receipt of the notice of the results of the follow-up survey from the department.

a. Repealed.

4. The provider shall request the administrative appeal within 15 days of receipt of the notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law, or its successor.

a. Repealed.

H. - H.1....

I. If a timely administrative appeal has been filed by a provider with a provisional initial license that has expired or by an existing provider whose provisional license has expired under the provisions of this Chapter, the DAL or its successor shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:409 (February 2012), amended LR 41:

#### **Subchapter D. Provider Responsibilities**

##### **§6247. Staffing Requirements**

A. - C.2. ...

3. A ratio of not less than one staff to five clients is maintained at all times; however, two staff must be on duty at all times with at least one being direct care staff when there is a client present.

D. - D.3. ...

4. Therapist. Each therapist shall be available at least three hours per week for individual and group therapy and two hours per month for family therapy.

5. Direct Care Staff. The ratio of direct care staff to clients served shall be 1:5 with a minimum of two staff on duty per shift for a 10 bed capacity. This ratio may need to be increased based on the assessed level of acuity of the youth or if treatment interventions are delivered in the community and offsite.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:413 (February 2012), amended LR 41:

##### **§6249. Personnel Qualifications and Responsibilities**

A. - A.1.a.ii.(c). ...

b. A supervising practitioner's responsibilities shall include, but are not limited to:

i. reviewing the referral PTA and completing an initial diagnostic assessment at admission or within 72 hours of admission and prior to service delivery;

ii. - iv. ...

v. at least every 28 days or more often as necessary, providing:

1.b.v.(a). - 6.b.viii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:414 (February 2012), amended LR 41:

#### **Subchapter F. Services**

##### **§6267. Comprehensive Treatment Plan**

A. Within seven days of admission, a comprehensive treatment plan shall be developed by the established multidisciplinary team of staff providing services for the client. Each treatment team member shall sign and indicate their attendance and involvement in the treatment team meeting. The treatment team review shall be directed and supervised by the supervising practitioner at a minimum of every 28 days.

B. - G5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:418 (February 2012), amended LR 41:

##### **§6269. Client Services**

A. - A.4. ...

B. The TGH is required to provide at least 16 hours of active treatment per week to each client. This treatment shall be provided and/or monitored by qualified staff.

C. The TGH shall have a written plan for insuring that a range of daily indoor and outdoor recreational and leisure opportunities are provided for clients. Such opportunities shall be based on both the individual interests and needs of the client and the composition of the living group.

C.1. - G4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:419 (February 2012), amended LR 41:

### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring access to appropriate therapeutic residential intervention services.

### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual and community asset development as described in R.S. 49:973 by reducing the financial burden on families for therapeutic services through increased access to local TGH providers.

### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

### **Public Comments**

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, May 28, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Therapeutic Group Homes Licensing Standards**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 14-15. It is anticipated that \$1,512 (SGF) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect revenue collections since the licensing fees,

in the same amounts, will continue to be collected pursuant to the therapeutic group home (TGH) licensing standards.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule continues the provisions of the July 20, 2014 Emergency Rule which amended the provisions governing TGH licensing standards to revise the current TGH licensing regulations. It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to therapeutic group homes for FY 14-15, FY 15-16, and FY 16-17, but will benefit all TGHs by establishing certain less restrictive provisions to encourage additional TGHs to seek licensure.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule may have a positive effect on competition and employment as it will assist providers in meeting the licensing standards.

Cecile Castello  
Director  
1504#067

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Health and Hospitals Office for Citizens with Developmental Disabilities**

Single Point of Entry into the System  
(LAC 48:IX.Chapter 7)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) pursuant to Act 128 of the 2005 Regular Legislative Session as contained in R.S. 28:451.1 is authorized to establish a developmental disabilities services system (system) and to serve as the single point of entry (SPOE) into the system at R.S. 28:454.1. The intent of this Rule is to establish OCDD as the SPOE and to specify a fair, efficient and consumer-friendly determination process for system entry. This determination process for system entry is to be equitably and uniformly applied by the human service authorities and human service districts or OCDD contractor(s) throughout the state. The human service authorities and human service districts will be referenced in this document as local governing entities (LGEs). A local governing entity (LGE) is an integrated human services delivery system with local accountability and management, which provides behavioral health and developmental disabilities services. "OCDD contractors" refers to regional system point of entry contractors who conduct eligibility determination for the early intervention system for children ages birth to three years.

## **Title 48**

## **PUBLIC HEALTH—GENERAL**

### **Part IX. Developmental Disabilities Services**

#### **Chapter 7. Single Point of Entry and Determination Process for System Entry**

#### **§701. Purpose**

A. - B.2. ...

3. the presence of a developmental disability;
4. the diagnostic assessment;
5. the developmental assessment for children ages birth through three years; and

6. specialized accommodations, including transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.(1)(2), Acts 2013, No. 417, §3, eff. June 21, 2013.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1241 (July 2006), amended LR 41:

### **§703. Definitions**

A. *Developmental Disability*—defined in accordance with the Developmental Disability Law at R.S.28:451.2(12) and 462(4)(c).

B. ...

C. *Entry Unit (EU)*—a section of the local governing entities (LGEs) that implements the developmental disabilities services system entry process.

D. *Entry Review Team (ERT)*—a transdisciplinary team including but not limited to, staff of the system entry unit, community services regional administrator or designee, and a psychologist. The team may also include a social worker, a nurse and/or other consultants as necessary.

E. - F. ...

G. *Local Governing Entity (LGE)*—an integrated human services delivery system with local accountability and management, which provides behavioral health and developmental disabilities services.

H. *OCDD Contractors*—regional system point of entry contractors who conduct eligibility determination for the early intervention system for children ages birth to three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:451.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1241 (July 2006), amended LR 41:

### **§705. Single Point of Entry**

A. The OCDD has responsibility for programmatic leadership in the designing and developing of all developmental disabilities services pursuant to agreements with the LGEs and OCDD contractors as statutorily constituted by state law and with public and private providers. Throughout this Rule, the term “entry unit” is used to describe the role of the LGEs and OCDD contractors in the OCDD system entry process.

B. The local governing entities (LGEs) are the Metropolitan Human Services District, the Capital Area Human Services District, the South Central Human Services Authority, the Acadiana Area Human Services District, the Imperial Calcasieu Human Services District, the Central Louisiana Human Services District, the Northwest Louisiana Human Services District, the Northeast Delta Human Services Authority, the Florida Parishes Human Services Authority and the Jefferson Parish Human Services Authority:

1. Metropolitan Human Services District—Orleans, Plaquemines and St. Bernard parishes;

2. Capital Area Human Services District—Ascension, East Baton Rouge, East Feliciana, Iberville, Point Coupee, West Baton Rouge, and West Feliciana parishes;

3. South Central Human Services Authority—Assumption, Lafourche, St. Charles, St. James, St. John, Terrebonne, and St Mary parishes;

4. Acadiana Area Human Services District—Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, and Vermilion parishes;

5. Imperial Calcasieu Human Services District—Allen, Beauregard, Cameron, Calcasieu, and Jefferson Davis parishes;

6. Central Louisiana Human Services District—Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Vernon, and Winn parishes;

7. Northwest Louisiana Human Services District—Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine, and Webster parishes;

8. Northeast Delta Human Services Authority—Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Tensas, Union, and West Carroll parishes;

9. Florida Parishes Human Services Authority—Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington parishes; and

10. Jefferson Parish Human Services Authority—Jefferson Parish.

C. - D.6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Human Services, Division of Mental Retardation/Developmental Disabilities, LR 16:31 (January 1990), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1241 (July 2006), LR 41:

### **§707. Standards for the Determination Process for System Entry**

A. The LGEs shall utilize specialized entry units for the determinations of system entry and entry review teams to review those determinations, which do not clearly meet the criteria for entry into the system. OCDD contractors shall utilize their early intervention eligibility teams for children ages birth to three years of age.

B. - C. ...

D. Requests for entry into the system must originate from the LGE in the geographic area from which the person or legally responsible party resides and can be made from only one such LGE or OCDD contractor at a time.

E. - F. ...

G. The face-to-face interview will be conducted at the entry unit location or at the applicant's home for children ages birth to 3 years. If an applicant is unable to get to the entry unit location, the staff will conduct the interview at the person's home or another agreed upon location. If a person fails to keep two appointments that are scheduled at locations outside the entry unit office, future appointments will be scheduled at the entry unit office.

H. - K.1.a. ...

b. family crisis exists with no caregiver support available; and

K.1.c. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1241 (July 2006), amended LR 41:

#### **§709. System Eligibility for Children between the Ages of 0-3 Years**

A. Children from 0-3 years who are currently eligible for Louisiana's early intervention system services as verified by receipt of all required early intervention system documents, including the individualized family services plan (IFSP), will meet criteria for entering the developmental disabilities services system.

B. The entry unit staff will refer the family or legal guardian to the early intervention system point of entry to seek an eligibility determination for early intervention services if the child is between the ages of 0-3 years and is not currently receiving services from the Early Intervention Program.

C. It is the responsibility of the parent or legal guardian to initiate contact with the local LGE entry unit after the IFSP transition conference. In those cases, the family will indicate its intention to participate in eligibility redetermination and will receive a letter from the Early Intervention Program advising of the need to contact the local LGE prior to the child's third birthday.

AUTHORITY NOTE: Promulgated in accordance with R.S.28:454.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1242 (July 2006), amended LR 41:

#### **§711. Approval for Entry into the System**

A. - A.2. ...

3. the protected date from the early intervention system for children who previously had early intervention eligibility.

B. If the entry process is not successfully completed within six months, the original date will no longer be "protected." A new date will be assigned upon completion of a new application. For children entering with an early intervention protected date, the date will be protected until the child's fifth birthdate.

C. Approval for entry into the system shall be based on:

1. the definition of a developmental disability in the Developmental Disabilities Law, R.S. 28:451.2(12) and/or 462(4)(c); and

2. ...

D. Entry Review Team

1. The LGEs shall establish an entry review team to review the documentation of persons who do not clearly meet the criteria for system entry contained herein. The OCDD contractors will utilize the child's eligibility team members to determine eligibility for early intervention.

2. - 3.d. ...

E. Persons who meet criteria for system entry will receive a statement of approval and a copy of the *Rights of People with Developmental Disabilities* from the LGE or the *Family Rights Handbook* from the OCDD contractor from which the persons applied for services and supports.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1242 (July 2006), amended LR 41:

#### **§713. Non-Approval for Entry into the System**

A. ...

B. Persons who are receiving services and who receive a SOD will continue to receive services for thirty calendar days from the receipt date of the SOD or until the end date of the IFSP for children in early intervention.

C. Persons who receive a SOD have the right to reapply for services at the entry unit in the area of their residence and to request and receive an administrative hearing through the Division of Administrative Law (DAL).

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.2 or 464(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1243 (July 2006), amended LR 41;

#### **§715. Redetermination of Eligibility**

A. ...

B. The face-to-face interview will not be necessary if the OCDD entry staff has met with the person in the past six months and has consulted with the person on the results of the screening tool in order to ensure the measure is fair and meaningful. For children in early intervention, a face-to-face team meeting is required annually for redetermination.

C. Re-determination for eligibility for the system shall be required under the following conditions.

1. For children in early intervention, there must be an annual redetermination.

2. If a child transitions from EarlySteps, there must be a redetermination by age 3, reflective of the change in eligibility requirements and legal definitions of developmental disability for ages 3 and up, in accordance with the Louisiana Developmental Disability Law (R.S. 28:451.2).

3. If initial eligibility is established on or after age 3, but prior to age 10, redetermination will occur within 5 years of the initial determination. If the re-determination occurs prior to the person's tenth birthday and there are no additional questions that would require an additional re-determination, then a review upon the person's tenth birthday should be conducted due to changing eligibility requirements and definitions at that age. (A person must have three substantial functional limitations versus two substantial functional limitations for ages 3 to 10 years.)

4. If at age 10, when at least two statements of approval (SOA) have been issued and the presence of a clear lifelong developmental disability exists and is expected to persist indefinitely, no additional redeterminations will be needed in adolescence and adulthood.

5. If a person does not meet criteria noted above or enters the system after age 10 but before 22 years of age, redetermination will occur within 5 years of the initial determination. If the re-determination occurs prior to the person's sixteenth birthday, and there are no additional questions that would require an additional re-determination, then a review upon the person's sixteenth birthday should be conducted to coincide with transition period from school to work and to reassess continued need for services into adulthood.

6. If at age 22, when at least two SOAs have been issued and the presence of a clear, lifelong developmental disability exists and is expected to persist indefinitely, then

no additional redeterminations will be required in adolescence and adulthood.

7. If a person enters the system after age 22 (or between ages 16-22), at least two determinations must occur within 3-5 years of one another to document and confirm presence of a lifelong developmental disability that is expected to persist indefinitely. No further redeterminations will be needed if there is no concern over transient nature of existing symptoms and need for continued assessment based upon ERT review.

D. If during the course of the initial determination process the ERT can establish substantial functional limitations in at least three life areas with scores greater than three standard deviations below the mean, the prognosis of the individual is such that there is no likelihood of significant improvements in those life areas, and there are no co-occurring medical or behavioral health conditions that may impact the limitations and necessitate re-evaluation, the ERT may decide the person has no need for any further redetermination.

E. Any persons who were approved to participate in the system without requiring redetermination as of the date of adoption of this Rule will continue to be approved for entry into the system without redetermination, unless redetermination is requested as specified in this rule and/or required for participation in specific services.

F. Redetermination is required as outlined above and/or when:

1. diagnosis of a developmental disability, as defined by state law is tenuous:

a. the individual appears to have a developmental disability that is diagnosable, but further assessment is needed to verify that the disability will be life-long;

b. the individual has a co-occurring behavioral health condition that is prominent, but it is not clear that the limitations are solely attributable to mental illness, therefore further assessment is needed;

c. the individual has a medical condition and may have an accompanying developmental disability; however, it is not clear whether the limitations experienced by the individual are attributable to the developmental disability, therefore further assessment is necessary;

2. prognosis of a chronic life-long condition of a developmental disability is uncertain;

3. new assessment information is obtained that may impact prior determination of a presence of a developmental disability. (This will also apply to individuals who were granted a "lifetime SOA" prior to the adoption of this Rule.)

G. Redetermination may be requested by any one of the following parties:

1. LGE entry review team;
2. person requesting supports;
3. person's family or legal representative;
4. person's support coordinator;
5. person's service provider;
6. person's planning team;
7. person's physician determining level of care;
8. staff involved in the provision of supports;
9. state monitoring authorities;
10. courts of appropriate jurisdiction.

H. If a person requires redetermination for approval, the LGE entry unit staff will notify the person in writing, and as

appropriate, the person's support coordinator and/or provider, sixty days prior to the SOA expiration date. The person then has thirty days in which to contact the EU staff to coordinate the redetermination process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1243 (July 2006), amended LR 41:

#### **§717. Closure of Requests for Supports and Services**

A. Initial requests may be "closed" due to:

1. insufficient information based upon the person/family consistently not complying with obtaining needed information and/or participating in scheduled appointments;

2. denial for system entry (SOD) has been determined; or

3. request of the individual and/or family.

B. If the person does not respond to the initial redetermination letter within 30 calendar days, at least two additional attempts to contact the individual will be made prior to case closure within the next 30 calendar days. The additional attempts to contact the individual will utilize more than one mode of contact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1243 (July 2006), amended LR 41:

#### **§719. OCDD Data Requirements**

A. The LGEs and OCDD contractors shall provide monthly to the OCDD central office random samples of completed determinations with supporting documentation in accordance with OCDD's quality review methodologies.

B. The LGEs and OCDD contractors shall utilize OCDD's information management system for developmental disabilities to enter all information as required by OCDD's policies and procedures for system entry.

C. The LGEs and OCDD contractors shall provide additional information to OCDD as requested for the purpose of evaluating quality and compliance with state laws, policies and procedures relevant to system entry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.17

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1243 (July 2006), amended LR 41:

#### **§721. OCDD Quality Reviews**

A. The OCDD central office will conduct periodic quality reviews of the LGEs and OCDD contractors regarding the processes for the single point of entry and the determination process for system entry.

B. The purpose of the quality reviews is to assess overall accuracy in decision making, completeness of information relative to the determination reached, and adherence to the Developmental Disability Law as well as to the rules, policies, operational instructions and procedures required by the office pertaining to single point of entry and the determination process for system entry conducted by the LGEs and OCDD contractors.

C. The quality reviews may consist of analyses of the following:

1. - 4. ...

5. completeness, timeliness and accuracy of information required on OCDD's information management system for developmental disabilities.

D. The review findings and subsequent recommendations along with any needed technical assistance will be provided to the LGEs and OCDD contractors. Specific recommendations for improvement or correction actions must be carried out in order to maintain compliance with all laws, rules, policies and procedures relevant to the single point of entry or determination for system entry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.17.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals Office for Citizens with Developmental Disabilities, LR 32:1243 (July 2006), amended LR 41:

#### **Family Impact Statement**

It is anticipated that the proposed action will have no known or foreseeable impact on the:

1. stability of the family;
2. authority and rights of parents regarding the education and supervision of their children;
3. functioning of the family;
4. family earnings and family budget;
5. behavior and personal responsibility of children; or
6. ability of the family or a local government to perform the functions as contained in the proposed action.

#### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Mark A. Thomas, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. He is responsible for responding to inquiries regarding this proposed Rule. The deadline for all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, May 27, 2015 at 9:30 a.m. in Room 118,

Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Single Point of Entry into the System**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule amends Louisiana Administrative Code Title 48, Part IX, Chapter 7-Single Point of Entry and Determination to both provide clarification of the eligibility determination process and standardize the process statewide. The proposed rule amends the Office for Citizens with Developmental Disabilities (OCDD) Single Point of Entry (SPOE) process as follows: (1) references the role Human Services Districts/Authorities in the delivery of developmental disabilities services; (2) clarifies the standards for determination, eligibility and approval into the developmental disability services system, and (3) revises the frequency of eligibility redetermination to standardize the process across all districts/authorities as well as make the process more efficient.

This proposed Rule will have no programmatic fiscal impact to the Department of Health and Hospitals or the Human Services Districts/Authorities other than the cost of rule promulgation for FY 15. The cost of rulemaking is anticipated to be \$1,944 in State General Fund for the proposed rule and the final Rule. The cost of rule making is routinely included in the agency's annual operating budget.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect revenue collections for FY 15.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

It is anticipated that implementation of this proposed rule will have no economic cost or benefits to directly affected persons or non-governmental groups for FY 15, FY 16 and FY 17.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This proposed rule has no known effect on competition and employment.

Mark A. Thomas  
Assistant Secretary  
1504#073

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Insurance Office of the Commissioner**

Regulation 31—Holding Company  
(LAC 37:XIII.Chapter 1)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 22:11, and R.S. 22:691.27, notice is hereby given that the Department of Insurance proposes to amend Regulation 31.

The purpose of the amendment is to update the current provisions of Regulation 31 to maintain consistency with the National Association of Insurance Commissioners' (NAIC) model regulation regarding the Insurance Holding Company System Regulatory Law.

## **Title 37 INSURANCE**

### **Part XIII. Regulations**

#### **Chapter 1. Regulation 31—Holding Company**

##### **§101. Purpose**

A. The purpose of this regulation is to set forth rules and procedural requirements which the commissioner deems necessary to carry out the provisions of Act 294 of the 2012 Regular Legislative Session to be comprised of R.S. 22:691.1-691.27 of the *Insurance Code*. The information called for by this regulation is hereby declared to be necessary and appropriate in the public interest and for the protection of the policyholders in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

##### **§103. Severability Clause**

A. If any provision of this regulation, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end the provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

##### **§105. Definitions**

A. For purposes of this Rule, the definitions detailed below shall apply.

*Executive Officer*—chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

*The Act*—the Insurance Holding Company System Regulatory Act (R.S. 22:691.1-691.27).

*Ultimate Controlling Person*—that person who is not controlled by any other person.

B. Unless the context otherwise requires, other terms found in this regulation and in R.S. 22:691.2 are used as defined in the Act. Other nomenclature or terminology is according to the *Insurance Code*, or industry usage if not defined by the code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

##### **§107. Subsidiaries of Domestic Insurers**

A. The authority to invest in subsidiaries under R.S. 22:691.3(B) is in addition to any authority to invest in

subsidiaries which may be contained in any other provision of the *Insurance Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

##### **§109. Acquisition of Control—Statement Filing**

A. A person required to file a statement pursuant to R.S. 22:691.4 shall furnish the required information on form A, hereby made a part of this regulation. Such person shall also furnish the required information on form E, hereby made a part of this regulation and described in §141 of this regulation.

B. A person required to file a notice of change of control due to testate or intestate inheritance or by appointment as a succession representative shall submit the following to the commissioner within thirty days of the testate or intestate or appointment as a succession representative.

1. A copy of the order appointing the succession representative, a copy of the judgment of possession transferring ownership, and any other such succession or inheritance documents as the commissioner may require.

2. Such biographical information as the commissioner may require.

3. Such other information as the commissioner may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

##### **§111. Amendments to Form A**

A. The applicant shall promptly advise the commissioner of any changes in the information so furnished on form A arising subsequent to the date upon which such information was furnished but prior to the commissioner's disposition of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

##### **§113. Acquisition of Section 691.4(A)(4) Insurers**

A. If the person being acquired is deemed to be a domestic insurer solely because of the provisions of R.S. 22:691.4(A)(4), the name of the domestic insurer on the cover page should be indicated as follows:

1. "ABC Insurance Company, a subsidiary of XYZ Holding Company".

B. Where an R.S. 22:691.4(A)(4) insurer is being acquired, references to "the insurer" contained in form A shall refer to both the domestic subsidiary insurer and the person being acquired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

#### **§114. Pre-Acquisition Notification**

A. If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to R.S. 22:691.4(A)(1), that person shall file a pre-acquisition notification form, form E, which was developed pursuant to R.S. 22:691.5(C)(1).

B. Additionally, if a non-domiciliary insurer licensed to do business in this state is proposing a merger or acquisition pursuant to R.S. 22:691.5, that person shall file a pre-acquisition notification form, form E. No pre-acquisition notification form need be filed if the acquisition is beyond the scope of R.S. 22:691.5 as set forth in R.S. 22:691.5(B)(2).

C. In addition to the information required by form E, the commissioner may wish to require an expert opinion as to the competitive impact of the proposed acquisition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

#### **§115. Annual Registration of Insurers—Statement Filing**

A. An insurer required to file an annual registration statement pursuant of R.S. 22:691.6 shall furnish the required information on form B, hereby made a part of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

#### **§117. Summary of Registration—Statement Filing**

A. An insurer required to file an annual registration statement pursuant to R.S. 22:691.6 is also required to furnish information required on form C, hereby made a part of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

#### **§119. Amendments to Form B**

A. An amendment to form B shall be filed within 15 days after the end of any month in which there is a material change to the information provided in the annual registration statement.

B. Amendments shall be filed in the form B format with only those items which are being amended reported. Each such amendment shall include at the top of the cover page "Amendment Number (insert number) to form B for (insert year)" and shall indicate the date of the change and not the date of the original filings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

#### **§121. Alternative and Consolidated Registrations**

A. Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under R.S. 22:691.6. A registration statement may include information not required by the Act regarding any insurer in the insurance holding company system, even if such insurer is not authorized to do business in this state. In lieu of filing a registration statement on form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided:

1. the statement or report contains substantially similar information required to be furnished on form B; and
2. the filing insurer is the principal insurance company in the insurance holding company system.

B. The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact, and an insurer filing a registration statement or report in lieu of form B on behalf of an affiliated insurer shall set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurer holding company system.

C. With the prior approval of the commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under §121.A.

D. Any insurer may take advantage of the provisions of R.S. 22:691.6(H) or (I) without obtaining the prior approval of the commissioner. The commissioner, however, reserves the right to require individual filings if he deems such filings necessary in the interest of clarity, ease of administration or the public good.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

#### **§123. Disclaimers and Termination of Registration**

A. A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") shall contain the following information:

1. the number of authorized, issued, and outstanding voting securities of the subject;
2. with respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly;
3. all material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person;
4. a statement explaining why such person should not be considered to control the subject.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993).



## **§125. Extraordinary Dividends and Other Distributions**

A. Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

1. the amount of the proposed dividend;
2. the date established for payment of the dividend;
3. a statement as to whether the dividend is to be in cash or other property, and if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for evaluation;
4. a copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:

- a. the amounts, dates, and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurers own securities) paid within the period of 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;

- b. surplus as regards policyholders (total capital and surplus) as of the thirty-first day of December next preceding;

- c. if the insurer is a life insurer, the net gain from operations for the 12-month period ending the thirty-first day of December next preceding;

- d. if the insurer is not a life insurer, the net income less realized capitalized gains for the 12-month period ending the thirty-first day of December next preceding and the two preceding 12-month periods; and

- e. if the insurer is not a life insurer, the dividends paid to stockholders, excluding distributions of the insurers own securities in the preceding two calendar years;

5. a balance sheet and statement of income for the period intervening from the last annual statement filed with the commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and

6. a brief statement as to the effect of the proposed dividend upon the insurers surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

B. Subject to R.S. 22:691.7(B), each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within 15 business days following the declaration thereof, including the same information required by Paragraph A.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

## **§126. Enterprise Risk Report**

A. The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to R.S. 22:691.6(L) shall furnish the required information on form F, hereby made a part of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:

## **§127. Adequacy of Surplus**

A. The factors set forth in R.S. 22:691.7(D) are not intended to be an exhaustive list. In determining the adequacy and the reasonableness of an insurer's surplus, no single factor is necessarily controlling. The commissioner will instead consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the commissioner will consider the extent to which each of these factors varies from company to company, and in determining the quality and liquidity of investments in subsidiaries, the commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

## **§129. Transactions Subject to Prior Notice—Notice Filing**

A. An insurer required to give notice of a proposed transaction pursuant to R.S. 22:691.7 shall furnish the required information on form D, hereby made a part of this regulation.

B. Agreements for cost sharing services and management services shall at a minimum and as applicable:

1. identify the person providing services and the nature of such services;

2. set forth the methods to allocate costs;

3. require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;

4. prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;

5. state that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;

6. define books and records of the insurer to include all books and records developed or maintained under or related to the agreement;

7. specify that all books and records of the insurer are and remain the property of the insurer and are subject to control of the insurer;

8. state that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer;

9. include standards for termination of the agreement with and without cause;

10. include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services;

11. specify that, if the insurer is placed in receivership or seized by the commissioner under R.S. 22:2001 - 2044 of the *Insurance Code*:

- a. all of the rights of the insurer under the agreement extend to the receiver or commissioner; and,

- b. all books and records will immediately be made available to the receiver or the commissioner, and shall be

turned over to the receiver or commissioner immediately upon the receiver or the commissioner's request;

12. specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to R.S. 22:2001-2044 of the *Insurance Code*; and

13. specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the commissioner under R.S. 22:2001-2044 of the *Insurance Code*, and will make them available to the receiver, for so long as the affiliate continues to receive timely payment for services rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

### **§131. Instructions for Forms A, B, C, D, E and F**

#### **A. General Requirements**

1. Forms A, B, C, D, E and F are intended to be guides in the preparation of the statements required by R.S. 22:691.4, 691.5, 691.6, and 691.7. They are not intended to be blank forms which are to be filled in. These statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

2. A complete copy of each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with commissioner by U.S. Mail, or as provided by LAC 37:XI.Chapter 9, addressed to: Insurance Commissioner of the State of Louisiana, P.O. Box 94214, Baton Rouge, LA 70804-9214, Attention: (Chief Examiner). The statement shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

3. Statements should be prepared on paper 8 1/2" x 11" in size and preferably bound at the top or the top left corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable, and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

4. If an applicant requests a hearing on a consolidated basis under R.S. 22:691.4(E)(3), in addition to filing the

form A with the commissioner, the applicant shall file a copy of form A with the National Association of Insurance Commissioners in electronic form.

#### **B. Forms—Incorporation by Reference, Summaries, and Omissions**

1. Information required by an item of form A, form B, form D, form E or form F may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of form A, form B, form D, form E or form F provided such document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the commissioner which were filed within three years need not to be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear, or confusing.

2. Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with commissioner which was filed within three years and may be qualified in its entirety by such reference. In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one such documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which such documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which such documents differ from the documents a copy of which is filed.

#### **C. Forms—Information Unknown or Unavailable and Extension of Time to Furnish**

1. Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions:

a. the person filing shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and

b. the person filing shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

2. If it is impractical to furnish any required information, document, or report at the time it is required to be filed, there may be filed with the commissioner as a separate document:

a. identifying the information, document, or report in question;

b. stating why the filing thereof at the time required is impractical; and

c. requesting an extension of time for filing the information, document, or report to a specified date. The request for extension shall be deemed granted unless the commissioner within 30 days after receipt thereof enters an order denying the request.

D. Forms—Additional Information and Exhibits. In addition to the information expressly required to be included in forms A, B, C, D, E or F there shall be added such other

material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to forms A, B, C, D, E or F shall include on the top of the cover page the phrase: "Change Number (insert number) to" and shall indicate the date of the change and not the date of the original filing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

### **§133. Form A—Acquisition of Control or Merger with a Domestic Insurer**

#### **STATEMENT REGARDING THE ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER**

\_\_\_\_\_  
Name of Domestic Insurer  
By

\_\_\_\_\_  
Name of Acquiring Person (Applicant)

Filed with the Insurance Department of

\_\_\_\_\_  
(State of domicile of insurer being acquired)

Dated: \_\_\_\_\_, 20 \_\_\_\_\_

Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should Be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### **ITEM 1. INSURER AND METHOD OF ACQUISITION**

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

#### **ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT**

(a) State the name and address of the applicant seeking to acquire control over the insurer.

(b) If the applicant is not an individual, state the nature of its business operations for the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence. Provide a brief but informative description of the business intended to be done by the applicant and the applicant's subsidiaries.

(c) Furnish a chart or listing clearly presenting the identities of the inter-relationships among the applicant and all affiliates of the applicant. No affiliate need be identified if its total assets are equal to less than 1/2 of 1 percent of the total assets of the ultimate controlling person affiliated with the applicant. Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g. corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings, and the date when commenced.

#### **ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT**

On the biographical affidavit, include a third party background check, and state the following with respect to (1) the applicant if (s)he is an individual or (2) all persons who are directors, executive officers or owners of 10 percent or more of the voting securities of the applicant if the applicant is not an individual.

(a) Name and business address;

(b) Present principal business activity, occupation or employment, including position and office held, and the name, principal business, and address of any corporation or other organization in which such employment is carried on;

(c) Material occupations, positions, offices, or employment during the last five years, giving the starting and ending dates of each and the name, principal business, and address of any business corporation or other organization in which each such occupation, position, office, or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension, or disciplinary proceedings in connection therewith.

(d) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

#### **ITEM 4. NATURE, SOURCE, AND AMOUNT OF CONSIDERATION**

(a) Describe the nature, source, and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between

the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes, and security arrangements relating thereto.

(b) Explain the criteria used in determining the nature and amount of such consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, he must specifically request that the identity be kept confidential.

#### ITEM 5. FUTURE PLANS OF INSURER

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate such insurer, to sell its assets to or merge or consolidate it with any person or persons, or to make any other material change in its business operations or corporate structure or management.

#### ITEM 6. VOTING SECURITIES TO BE ACQUIRED

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

#### ITEM 7. OWNERSHIP OF VOTING SECURITIES

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates, or any person listed in Item 3.

#### ITEM 8. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER

Give a full description of any contracts, arrangements, or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any person listed in Item 3 is involved including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss, or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements, or understandings have been entered into.

#### ITEM 9. RECENT PURCHASES OF VOTING SECURITIES

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates, or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement. Include in such description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefor. State whether any such shares so purchased are hypothecated.

#### ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates, or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates, or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement.

#### ITEM 11. AGREEMENTS WITH BROKER-DEALERS

Describe the terms of any agreement, contract, or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto.

#### ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial statements, exhibits, and three-year financial projections of the insurer(s) shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the persons identified in Item 2(c) for the preceding five fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if such information is available. Such statements may be prepared on either an individual basis, or, unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant and the ultimate controlling person shall be accompanied by the certificate of an independent certified public accountant to the effect that such statements present fairly the financial position of the applicant and the ultimate controlling person and the results of their operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer who is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of such person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

Other than the applicant, an ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent certified public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the Personal Financial Statements Guide by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent certified public accountant's Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles.

(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting materials relating thereto, any proposed employment, consultation, advisory, or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by Form A or §131.A and 131.C of Regulation 31.

#### ITEM 13. AGREEMENT REQUIREMENTS FOR ENTERPRISE RISK MANAGEMENT

Applicant agrees to provide, to the best of its knowledge and belief, the information required by Form F within 15 days after the end of the month in which the acquisition of control occurs.

#### ITEM 14. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

##### SIGNATURE

Pursuant to the requirements of R.S. 22:691.4, \_\_\_\_\_ has caused this application to be duly signed on its behalf in the City/Parish of \_\_\_\_\_ and state of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Name of Applicant

BY \_\_\_\_\_  
(Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

# CERTIFICATION

The undersigned deposes and says that (s) he has duly executed the attached application dated \_\_\_\_\_, 20 \_\_\_\_\_, for and on behalf of \_\_\_\_\_ that (s)he is the \_\_\_\_\_ of such

(Name of Applicant)

(Title of Officer)

company that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information, and belief.

(Signature)

(Type or print name beneath)

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.4 and 22:691.11

amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992),

## §135. Form B—Annual Registration Statement

### INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT

Filed with the Insurance Department of the  
State of \_\_\_\_\_

By \_\_\_\_\_

(Name of Registrant)

On Behalf of Following Insurance Companies  
Name \_\_\_\_\_

Address \_\_\_\_\_

Date: \_\_\_\_\_, 20 \_\_\_\_\_

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should Be Addressed: \_\_\_\_\_

#### ITEM 1. IDENTITY AND CONTROL OF REGISTRANT

Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"), the home office address and principal executive offices of each; the date of which each Registrant became part of the insurance holding company system; and the method(s) by which control of each Registrant was acquired and is maintained.

#### ITEM 2. ORGANIZATIONAL CHART

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. No affiliate need be shown if its total assets are equal to less than 1/2 of 1% of the total assets of the ultimate controlling person within the insurance holding company system unless it has assets valued at or exceeding (insert amount). The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

#### ITEM 3. THE ULTIMATE CONTROLLING PERSON

As to the ultimate controlling person in the insurance holding company system furnish the following information:

- (a) Name
- (b) Home office address
- (c) Principal executive office address
- (d) The organizational structure of the person, (i.e., corporation, partnership, individual, trust, etc.)
- (e) The principal business of the person
- (f) The name and address of any person who holds or owns 10 percent or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned.

(g) If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings, and the date when commenced.

#### ITEM 4. BIOGRAPHICAL INFORMATION

If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, furnish the following information for the directors and executive officers of the ultimate controlling person: the individual's name and address, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations. If the ultimate controlling person is an individual, furnish the individual's name and address, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations.

#### ITEM 5. TRANSACTIONS AND AGREEMENTS

Briefly describe the following agreements in force; and transactions currently outstanding or which have occurred during the last calendar year between the Registrant and its affiliates:

- (1) loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;
- (2) purchases, sales, or exchanges of assets;
- (3) transactions not in the ordinary course of business;
- (4) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the Registrant's assets to liability, other than insurance contracts entered into the ordinary course of the Registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the Registrant's business;
- (5) all management agreements, service contracts, and all cost-sharing arrangements;
- (6) reinsurance agreements;
- (7) dividends and other distributions to shareholders;
- (8) consolidated tax allocation agreements; and

(9) any pledge of the Registrant's stock and/or of the stock of any subsidiary or controlling affiliate for a loan made to any member of the insurance holding company system.

Sales, purchases, exchanges, loan or extensions of credit, investments, or guarantees involving the amounts specified in R.S. 22:691.6(D) or less of the Registrant's admitted assets as of the thirty-first day of December next preceding, or such transactions as set forth below, shall not be deemed material.

Sales, purchases, exchanges, loan or extensions of credit, investments or guarantees of less than \$25,000 shall not be deemed material even if such transaction would otherwise be deemed material under the provisions of R.S.22:691.6(D). Additionally, transactions that fall between \$25,000 and \$250,000 shall not be deemed material unless such transaction involves .0075 of the admitted assets of the insurer as of the thirty-first day of December next preceding.

The description shall be in a manner as to permit the proper evaluation thereof by the commissioner, and shall include at least the following: the nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to such transaction, and relationship of the affiliated parties to the Registrant.

#### ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which such litigation or proceeding is or was pending:

(a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and

(b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership, or other corporate reorganizations.

#### ITEM 7. STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

#### ITEM 8. FINANCIAL STATEMENT AND EXHIBITS

(a) Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, the financial statements shall include the annual financial statements of the ultimate controlling person in the holding company system as of the end of the person's latest fiscal year. Financial statements are required for an ultimate controlling person who is an individual as well as for a corporation or other type of business organization. If a holding company system includes more than one ultimate controlling person, annual financial statements are required for each ultimate controlling person.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial statements may be prepared on either an individual basis, or unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

Other than with respect to the foregoing, such financial statement shall be filed in a standard form and format adopted by the National Association of Insurance Commissioners, unless an alternative form is accepted by the Commissioner. Documentation and financial statements filed with the Securities and Exchange Commission or audited GAAP financial statements shall be deemed to be an appropriate form and format.

Unless the Commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent certified public accountant to the effect that the statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that state.

Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent certified public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the Personal Financial Statements Guide by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent certified public accountant's Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles.

(c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by Form B or §131.A and §131.C.

#### ITEM 9. FORM C REQUIRED

A Form C, Number Summary of Registration Statement, must be prepared and filed with this Form B.

#### ITEM 10. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

##### SIGNATURE

Pursuant to the requirements of R.S. 22:691.6, the Registrant has caused this annual registration statement to be duly signed on its behalf in the City/Parish of \_\_\_\_\_, and State of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL) \_\_\_\_\_  
(Name of Registrant)

By (Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

##### CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated \_\_\_\_\_, 20\_\_\_\_, for and on behalf of \_\_\_\_\_; that (s)he is the \_\_\_\_\_ of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and the facts therein set forth are true to the best of his/her knowledge, information, and belief.

(Signature) \_\_\_\_\_

(Type or print name beneath) \_\_\_\_\_

AUTHORITY NOTE: Promulgated in accordance with R.S.  
22:691.6 and 22:691.11

HISTORICAL NOTE: Promulgated by the Department of  
Insurance, Commissioner of Insurance, LR 18:274 (March 1992),  
amended LR 19:501 (April 1993), amended by the Office of the  
Commissioner, LR 41:

**§137. Form C—Registration Statement Summary**

**SUMMARY OF REGISTRATION STATEMENT**

Filed with the Insurance Department of the  
State of \_\_\_\_\_

By \_\_\_\_\_

(Name of Registrant)

On Behalf of the Following Insurance Companies  
Name \_\_\_\_\_

Address \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_.

Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

Furnish a brief description of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. The description shall be in a manner as to permit the proper evaluation thereof by the commissioner, and shall include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where such changes are ones which result in ownership or holdings of 10 percent or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where: an individual is, for the first time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates his or her responsibilities with the ultimate controlling person or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of such change shall be included. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts and the review that might otherwise occur.

**SIGNATURE AND CERTIFICATION**

Signature and certification required as follows:

**SIGNATURE**

Pursuant to the requirements of RS. 22:691.6, the Registrant has caused this summary of registration statement to be duly signed on its behalf in the City/Parish of \_\_\_\_\_ and the State of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL) \_\_\_\_\_  
(Name of Applicant)

By \_\_\_\_\_  
(Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)  
\_\_\_\_\_  
(Title)

**CERTIFICATION**

The undersigned deposes and says that (s)he has duly executed the attached summary of registration statement dated \_\_\_\_\_ 20\_\_\_\_, for and on behalf of \_\_\_\_\_ (Name of Company); that (s)he is the \_\_\_\_\_ (Title of Officer) of such company and that (s) he is authorized to execute and file such instrument. Deponent further says that (s) he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information, and belief.

(Signature) \_\_\_\_\_  
(Type or print name beneath) \_\_\_\_\_

AUTHORITY NOTE: Promulgated in accordance with R.S.  
22:691.6 and 22:691.11.

HISTORICAL NOTE: Promulgated by the Department of  
Insurance, Commissioner of Insurance, LR 18:274 (March 1992),  
amended LR 19:501 (April 1993), amended by the Office of the  
Commissioner, LR 41:

## §139. Form D—Prior Notice of a Transaction

### PRIOR NOTICE OF A TRANSACTION

Filed with the Insurance Department of the State of \_\_\_\_\_

By \_\_\_\_\_

(Name of Registrant)

On Behalf of Following Insurance Companies  
Name \_\_\_\_\_

Address \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_.

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning Statement Should Be Addressed: \_\_\_\_\_

#### ITEM 1. IDENTITY OF PARTIES TO TRANSACTION

Furnish the following information for each of the parties to the transaction:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.
- (d) The organizational structure, (i.e. corporation, partnership, individual, trust, etc.).
- (e) A description of the nature of the parties' business operations.
- (f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties.
- (g) Where the transaction is with a non-affiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.

#### ITEM 2. DESCRIPTION OF THE TRANSACTION

Furnish the following information for each transaction for which notice is being given:

- (a) A statement as to whether notice is being given under R.S. 22:691.7(A)(2)(a)(b)(c)(d) or (e).
- (b) A statement of the nature of the transaction.
- (c) A statement of how the transaction meets the 'fair and reasonable' standard of R.S. 22:691.7(A)(1)(a); and
- (d) The proposed effective date of the transaction.

#### ITEM 3. SALES, PURCHASES, EXCHANGES, LOANS, EXTENSIONS OF CREDIT, GUARANTEES OF INVESTMENTS

Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice, a description of the terms of any securities being received, if any, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for the evaluation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee, or other arrangement, state the time period during which the investment, guarantee, or other arrangement will remain in effect, together with any provisions for extensions or renewals of such investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the maximum amount which can at any time be outstanding or for which the insurer can be legally obligated under the loan, extension of credit or guarantee is less than (a) in the case of non-life insurers, the lesser of 3 percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders or, (b) in the case of life insurers, 3 percent of the insurer's admitted assets, each as of the thirty-first day of December next preceding.

#### ITEM 4. LOANS OR EXTENSIONS OF CREDIT TO A NON-AFFILIATE

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in any affiliate of the insurer making such loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of or make investments in any affiliate. Describe the amount and source of funds, securities, property, or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than, in the case of non-life insurers, the lesser of 3 percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders or, with respect to life insurers, 3 percent of the insurer's admitted assets, each as of the thirty-first of December next preceding.

#### ITEM 5. REINSURANCE

If the transaction is a reinsurance agreement or modification thereto, as described in R.S. 22:691.7(A)(2)(c)(ii), or a reinsurance pooling agreement or modification thereto as described in R.S. 22:691.7(A)(2)(c)(i), furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or change in the insurer's liabilities in any of the next three years, in connection with the reinsurance agreement or modification thereto is less than 5 percent of the insurer's surplus as regards policyholders, as of the thirty-first day of December next preceding. Notice shall be given for all reinsurance pooling agreements including modifications thereto.

#### ITEM 6. MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS, AND COST-SHARING ARRANGEMENTS

For management and service agreements, furnish:

- (a) A brief description of the managerial responsibilities, or services to be performed;



(b) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

For cost-sharing arrangements, furnish:

- (a) A brief description of the purpose of the agreement;
- (b) A description of the period of time during which the agreement is to be in effect;
- (c) A brief description of each party's expenses or costs covered by the agreement;
- (d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement;
- (e) A brief statement as to the effect of the transaction upon the insurer's policyholder surplus;
- (f) A statement regarding the cost allocation methods that specifies whether proposed charges are based on "cost or market." If market based, rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable; and
- (g) A statement regarding compliance with the *NAIC Accounting Practices and Procedure Manual* regarding expense allocation.

**ITEM 7. SIGNATURE AND CERTIFICATION**

Signature and certification required as follows:

**SIGNATURE**

Pursuant to the requirements of R.S. 22:691.7, \_\_\_\_\_ has caused this notice to be duly signed on its behalf in the City/Parish of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL) \_\_\_\_\_  
(Name of Applicant)

By \_\_\_\_\_  
(Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)  
\_\_\_\_\_  
(Title)

**CERTIFICATION**

The undersigned deposes and says that (s)he has duly executed the attached notice dated \_\_\_\_\_, 20\_\_\_\_, for and on behalf of \_\_\_\_\_; that (s)he is the \_\_\_\_\_ of such company  
(Name of Applicant) (Title of Officer)

and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information, and belief.

(Signature) \_\_\_\_\_  
(Type or print name beneath) \_\_\_\_\_

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:691.5 and 22:691.11

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

**§141. Form E—Pre-Acquisition Notification Form Regarding the Potential Competitive Impact of a Proposed Merger or Acquisition by a Non-Domiciliary Insurer Doing Business in this State or by a Domestic Insurer**

\_\_\_\_\_  
(Name of Applicant)

\_\_\_\_\_  
(Name of Other Person Involved in Merger or Acquisition )

Filed with the Insurance Department of \_\_\_\_\_  
Dated: \_\_\_\_\_, 20\_\_\_\_.

Name, Title, Address and Telephone Number of person Completing This Statement:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ITEM 1. NAME AND ADDRESS**

State the names and addresses of the persons who hereby provide notice of their involvement in a pending acquisition or change in corporate control.

**ITEM 2. NAME AND ADDRESSES OF AFFILIATED COMPANIES**

State the names and addresses of the persons affiliated with those listed in Item 1. Describe their affiliations.

**ITEM 3. NATURE AND PURPOSE OF THE PROPOSED MERGER OR ACQUISITION**

State the nature and purpose of the proposed merger or acquisition.

ITEM 4. NATURE OF BUSINESS

State the nature of the business performed by each of the persons identified in response to Item 1 and Item 2.

ITEM 5. MARKET AND MARKET SHARE

State specifically what market and market share in each relevant insurance market the persons identified in Item 1 and Item 2 currently enjoy in this state. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past five years and identify the source of such data. Provide a determination as to whether the proposed acquisition or merger, if consummated, would violate the competitive standards of the state as stated in R.S. 22:691.5(D). If the proposed acquisition or merger would violate competitive standards, provide justification of why the acquisition or merger would not substantially lessen competition or create a monopoly in the state.

For purposes of this question, market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.5 and 22:691.11

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

**§143. Form F—Enterprise Risk Report**

Filed with the Insurance Department of the  
State of \_\_\_\_\_

By

\_\_\_\_\_  
(Name of Registrant/Applicant)

On Behalf of/Related to Following Insurance Companies  
Name

Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_, 20 \_\_\_\_\_

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should Be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ITEM 1. ENTERPRISE RISK

The Registrant/Applicant, to the best of its knowledge and belief, shall provide information regarding the following areas that could produce enterprise risk as defined in R.S. 22:691.2(4), provided such information is not disclosed in the Insurance Holding Company System Annual Registration Statement filed on behalf of itself or another insurer for which it is the ultimate controlling person:

- (a) Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system;
- (b) Acquisition or disposal of insurance entities and reallocating of existing financial or insurance entities within the insurance holding company system;
- (c) Any changes of shareholders of the insurance holding company system exceeding ten percent or more of voting securities;
- (d) Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system;
- (e) Business plan of the insurance holding company system and summarized strategies for next 12 months;
- (f) Identification of material concerns of the insurance holding company system raised by supervisory college, if any, in last year;
- (g) Identification of insurance holding company system capital resources and material distribution patterns;
- (h) Identification of any negative movement, or discussions with rating agencies which may have caused, or may cause, potential negative movement in the credit ratings and individual insurer financial strength ratings assessment of the insurance holding company system (including both the rating score and outlook);
- (i) Information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should such guarantees be called upon; and
- (j) Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

The Registrant/Applicant may attach the appropriate form most recently filed with the U.S. Securities and Exchange Commission, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the form provides responsive information. If the Registrant/Applicant is not domiciled in the U.S., it may attach its most recent public audited financial statement filed in its country of domicile, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the financial statement provides responsive information.

ITEM 2: OBLIGATION TO REPORT.

If the Registrant/Applicant has not disclosed any information pursuant to Item 1, the Registrant/Applicant shall include a statement affirming that, to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure pursuant to Item 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.6 and 22:691.11

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:

**Family Impact Statement**

1. Describe the effect of the proposed regulation on the stability of the family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

#### **Poverty Impact Statement**

1. Describe the effect on household income, assets, and financial security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

#### **Small Business Statement**

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

#### **Provider Impact Statement**

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed amended regulation will have no effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed amended regulation will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed amended regulation will have no effect.

#### **Public Comments**

Interested persons may submit written comments on the proposed amendments to Regulation 31 until 5 p.m., Thursday, May 21, 2015, to Walter Corey, Division of Legal Services, Office of the Commissioner, P.O. Box 94214, Baton Rouge, LA 70804.

Denise Brignac  
Deputy Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 31—Holding Company**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will not result in implementation costs or savings to state or local governmental units. The proposed changes update the current provisions of Regulation 31 to maintain consistency with the National Association of Insurance Commissioner's (NAIC) model regulation regarding the Insurance Holding Company System Regulatory Law as set forth in Act 294 of the 2012 Regular Legislative Session. The proposed changes update and make technical changes to rules regarding the regulation of insurance holding companies and certain business practices thereof.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no impact on state or local governmental revenues.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will have no impact on economic costs or benefits to directly affected persons or nongovernmental groups. The proposed changes provide new provisions and forms for Holding Companies to maintain consistency with the NAIC model and to codify the requirements of Act 294 of 2012.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no impact upon competition and employment in the state.

Denise Brignac  
Deputy Commissioner  
1504#049

Greg V. Albrecht  
Chief Economist  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Supervisors of Louisiana State University and Agricultural and Mechanical College Office of Procurement and Property Management

Public Notification and Right to Audit  
(LAC 34:XIII.511 and 1902)

The Board of Supervisors of Louisiana State University and Agricultural and Mechanical College proposes to amend LAC 34:XIII.511 and 1902, in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Granting Resources and Autonomy for Diplomas Act, R.S. 17:3139 et seq.

The purpose of the proposed change to §511 is to replace the permissive “may” with a mandatory “shall.” The criteria set forth by this Section will be required elements of any public notification for solicitation.

The purpose of the proposed change to §1902 is to add a section that requires the “right to audit” as a required contract clause so the audit language will be included in all contracts. Subsection A is renumbered in order to remove the right to audit as a permissive clause.

#### Title 34

### GOVERNMENT CONTRACTS, PROCUREMENT, AND PROPERTY CONTROL

#### Part XIII. University Pilot Procurement Code

#### Chapter 5. Competitive Solicitations

#### §511. Public Notice for Procurements; Submission Deadline

A. Public Notification. Public notification of solicitations for bids/proposals/offers/auctions/quotations shall be made through a centralized electronic interactive environment. The notice for each solicitation shall contain the name, address, email address and telephone number of the university contact person from whom detailed information may be obtained, shall describe the goods or services sought, and shall designate the forms to be used and the date, time and place for the receipt of bids/proposals/offers/auctions/quotations.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:546 (March 2015), amended LR 41:

#### Chapter 19. Contracts

#### §1902. Contract Clauses; Administration

A. ...

1. termination of the contract for default;
2. the right to suspend or terminate a contract based on the absence of budgeted funds for the acquisition of goods or services;

3. prohibiting illegal discrimination by the contractor;
4. requiring that Louisiana law shall apply to all disputes, and that venue for any actions brought against university arising out of the contract shall be only in the Nineteenth Judicial District Court in East Baton Rouge Parish;

5. liquidated damages as appropriate;
6. specified reasons for delay or nonperformance;
7. termination of the contract in whole or in part for the convenience of the university;
8. for cost reimbursement-based contracts, an itemized budget;
9. a description of reports or other deliverables to be received, when applicable;
10. a schedule when reports or other deliverables are to be received, when applicable;
11. responsibility for payment of taxes, when applicable;
12. assignability of the contract or rights to payments under the contract;
13. indemnification;
14. payment terms in accordance with R.S. 13:4202(B) for the applicable time period.

B. Required Contract Clauses. Clauses providing for the following requirement shall be included in contracts.

1. All contracts will contain audit language to comply with R.S. 37:1629.1.

C. Contract Clauses. May permit or require the inclusion of clauses providing for appropriate equitable adjustments in prices, time for performance, or other contract provisions.

D. Documentation. If it is determined by the university that additional evidence of the validity of a claim for payment is required, such evidence shall be requested within 10 days, excluding Saturdays, Sundays and postal holidays from the receipt of the bill. In instances where additional evidence is required, the bill shall be reviewed and payment or rejection made within 30 days from receipt of the evidence requested by the university.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:552 (March 2015), amended LR 41:

#### Family Impact Statement

The provisions of this proposed Rule will have no known impact on family formation, stability or autonomy as described in R.S. 49:972.

#### Poverty Impact Statement

The provisions of this proposed Rule will have no known impact on child, individual or community asset development, as described in R.S. 49:973.

#### Provider Impact Statement

The provisions of this proposed Rule will have no known impact on staffing level, direct or indirect cost, or overall ability, as described in R.S. 49:953(a)(1).

#### Public Comments

All interested parties are invited to submit written data, views, comments or arguments related to these proposed rules through Sunday, May 10, 2015 to 213 Thomas Boyd Hall, LSU, Baton Rouge, LA 70803. Interested parties are urged to review the full text of the proposed University Pilot Procurement Code, a downloadable version of which is

Sally McKechnie  
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Public Notification and Right to Audit**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There should be no estimated implementation costs (savings) to state or local governmental units. The proposed rule change requiring public notification of solicitations for bids, offers, auctions, and quotations through a centralized electronic interactive environment will not affect costs of state or local government units because it is current practice for LSU to notify the public through the state's Louisiana Procurement and Contract Network (LaPAC). Furthermore, the proposed rule change requiring that procurement contracts contain language to comply with audit requirements in La. R.S. 39:1629.1 should have no material impact on state or local governmental expenditures.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on revenue collections of state or local governmental units due to the proposed rule changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There are no anticipated impacts on businesses or persons due to the proposed rule changes.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There is no anticipated impact on competition and employment due to the proposed rule changes.

Sally McKechnie  
Director  
1504#030

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Corrections Services**

**Offender Incentive Pay and Other Wage Compensation  
(LAC 22:I.331)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Section 331, Offender Incentive Pay and Other Wage Compensation.

The full text of this proposed Rule may be viewed in the Emergency Rule section of this edition of the *Louisiana Register*.

**Family Impact Statement**

Amendment to the current Rule should not have any known or foreseeable impact on family formation, stability or autonomy, as described in R.S. 49:972.

**Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on poverty as described in R.S.49:973.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

**Public Comments**

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on May 11, 2015.

James. M. LeBlanc  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Offender Incentive Pay  
and Other Wage Compensation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

These revisions will increase state expenditures as incentive pay is funded through self-generated monies through the Division of Prison Enterprises. However, due to the relatively low hourly pay rates for offenders under the proposed rule, the anticipated fiscal impact is minimal. Because wages outlined in the proposed rule are funded using self-generated revenues, offender labor will only be utilized and their wages paid to the extent the anticipated revenues are realized.

The proposed rule change is a revision to the existing offender incentive pay and other wage compensation regulation. The proposed rule change to LAC 22:I.331.D.14 sets hourly incentive wage rates paid to offenders who are participating in the American Sign Language Interpreting Program and sets a maximum wage of up to \$1.00 hourly, an increase from the previous maximum hourly wage of \$0.60.

In addition, the proposed rule adds LAC 22:I.331.D.16 for offenders who are assigned to work as legal counsel substitutes and the hourly incentive wages paid to those offenders in accordance with their education and years of legal experience. The hourly wage rates set forth in the proposed rule for legal counsel substitutes are for new job classifications for offenders. As a result, the hourly wage range of at least \$0.25 and up to \$1.00 for legal counsel substitutes represent new, additional expenditures.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

Offenders participating in the American Sign Language Interpreting Program will receive an economic benefit of an hourly wage of at least \$0.20 per hour and up to \$1.00 per hour depending on their classification as a Sign Language Student I, Sign Language Interpreter Student/Tutor, or Sign Language Interpreter/Certified Tutor. In addition, offenders who are assigned to work as legal counsel substitutes will receive an economic benefit of an hourly wage of at least \$0.25 per hour and up to \$1.00 depending on their education, years of legal experience, and assigned classification of a Legal Worker 1-3. The amount earned by offenders is indeterminable since it is unknown how much each offender would be receiving and how many offenders will be assigned to these job titles in the future.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III  
Undersecretary  
1504#087

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Public Safety and Corrections Gaming Control Board

#### Age Restrictions for the Casino; Methods to Prevent Minors from Gaming Area (LAC 42:III.2915)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:III.2915.

#### Title 42

#### LOUISIANA GAMING

#### Part III. Gaming Control Board

#### Chapter 29. Operating Standards

#### §2915. Age Restrictions for the Casino; Methods to Prevent Minors from Gaming Area

##### A. No persons under the age of 21 shall:

1. enter the designated gaming area, except responding emergency personnel acting in their official capacity;

##### A.2. - B.1. ...

2. posting signs at all entrances to the gaming area notifying patrons that persons under 21 years of age are not permitted to loiter in or about the gaming area. The signs shall be displayed in English, Spanish, and Vietnamese;

3. posting signs or other approved means displaying the date of birth of a person who is 21 years old that date; and

4. monitoring the access to the designated gaming area by all emergency service personnel under the age of 21 to ensure that they do not participate in gaming activities.

##### C. ...

D. As used in this Section, emergency service personnel are individuals who are:

1. employed or affiliated with a bonafide emergency service agency, department or company;

2. on official business rendering aid in an emergency situation; and

3. wearing clothing, uniforms or other insignia which distinguishes them as being affiliated with an emergency service agency, department or company.

E. As used in this Section, emergency services agency, department or company shall mean: police department, fire department, emergency medical service company, or private ambulance service company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1657 (July 2012), amended LR 41:

### Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.2915.

It is accordingly concluded that amending LAC 42:III.2915 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

### Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.2915.

It is accordingly concluded that amending LAC 42:III.2915 would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### Small Business Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:III.2915 is amended as the change will not apply to small businesses.

### Provider Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:III.2915.

It is accordingly concluded that amending LAC 42:III.2915 would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

### Public Comments

All interested persons may submit comments relative to this proposed Rule, through May 11, 2015, to Earl Pitre, Jr., Assistant Attorney General, at Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Age Restrictions for the Casino; Methods to Prevent Minors from Gaming Area

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. This rule change codifies current practice as a result of Act 738 of the 2014 Regular Legislative Session. Act 738 provides an exception for emergency personnel who are under the age of twenty-one and acting in their official capacity to enter the designated gaming area of a riverboat, the official gaming establishment or the designated slot machine area of a pari-mutuel wagering facility.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no effect on costs or economic benefits to directly affected persons or non-governmental units.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1504#079

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Public Safety and Corrections Gaming Control Board

Casino Gaming Payment Interception (LAC 42:III.2737)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:III.2737.

#### Title 42

#### LOUISIANA GAMING

#### Part III. Gaming Control Board

#### Chapter 27. Accounting Regulations

#### §2737. Casino Gaming Payment Interception

A. The Department of Children and Family Services (DCFS) shall provide real-time or immediate electronic access to a database containing current information for persons having child support arrearages or overpayments. This access shall be available to the entities licensed or permitted under chapters 1, 4, 5, or 7 of title 27 of the *Revised Statutes*.

1. Upon the availability of a single-point inquiry system, which allows for searches of one or more real-time databases containing debt information to entities licensed or permitted under chapters 1, 4, 5, or 7 of title 27 of the *Revised Statutes* the requirements of this Section will apply to that system. Debts owed to DCFS maintain priority over debts from this system in accordance with R.S. 47:1676(D)(4)(d).

B.1. Prior to issuing payment of winnings (either cash or a second or later progressive slot machine annuity payment) in an amount requiring the filing of a W-2G or substantially equivalent form, the payor shall access the DCFS database and/or any other system implemented in accordance with Subsection A of this Section to determine if the winning patron is recorded as owing overdue child support or receiving child support overpayments, or owing other debts to the state.

2. If the patron is recorded as owing a debt in the system(s), the payor may deduct up to \$35 as an administrative fee and shall then intercept the amount noted from the patron's winnings. Any amount remaining following the deduction of the administrative fee, intercept amount, and any other deductions required by law shall then be paid to the winning patron.

3. If the winning patron's information is not recorded in the database, a licensee shall maintain a record of the negative search results for each payment made to a cash prize winner by attaching a print out of the negative results, or similar "No Record Found" page generated by the database to the jackpot payout slip. A generated log of all searches made may be printed and maintained in the licensee's accounting records in lieu of attaching the negative results record to each jackpot payout slip.

4. If the winning patron's information is not recorded in the database(s), a permittee who issues a second or later progressive slot annuity payment shall maintain a copy of the negative results or other "No Record Found" page generated by the database for each payment made to a progressive slot jackpot annuitant.

C.1. Intercepted amounts shall be forwarded to DCFS within seven business days in accordance with R.S. 27:24(A)(5)(c) and shall include a record of the identifying information for the individual from whom the payment was intercepted and the amount intercepted from each individual. Alternatively, if the payment is owed to another agency, the payment shall be made in accordance with that agency's directive.

2. Licensees may aggregate multiple interception amounts for transfer to DCFS or another agency, provided they include a simultaneous record of the identifying information for the individuals from whom the payments were intercepted and the amount intercepted from each individual.

#### D.1. ...

a. the amount of the administrative fee charged for processing interceptions;

b. either a list of employees authorized to access the database(s) or an authorization noted in an authorized employee's job description;

c. procedures designed to prevent employees from willfully failing to withhold intercept payments identified in one or more state systems providing access to the casino;

d. procedures for restricting access to any DCFS or other state database to authorized employees in such a manner that identifies the employee accessing the database;

e. ...

f. procedures for accessing and searching the database;

g. procedures for preserving the confidentiality of the information retrieved from the database;

- h. ...
- i. procedures for preventing patrons with outstanding child support arrearages, overpayments, or other system identified debts, from transferring or assigning their jackpots to another patron;
- j. ...
- k. procedures for notifying patrons subject to interception of the withholding by providing them with a receipt stating the reason for the interception, the amount withheld, and contact numbers for the intercepting agency;
- l. ...
- m. procedures for attaching the documentation required by Subsection F of this Section to the jackpot slip in the event the database is inaccessible;
- n. procedures for the timely forwarding intercepted payments to the appropriate agency; and
- o. procedures to ensure payments to DCFS are the primary payments and ensuring intercepted funds are forwarded to the appropriate agency.

E. Any licensee or permittee who issues a second or later progressive slot machine annuity payment shall include in its internal controls, the procedures required in this Section for jackpot intercepts.

F. Any licensee or permittee searching the database or withholding money in accordance with R.S. 27:24(A), R.S. 47:1676(D)(4), and this Section, shall submit a monthly report to the division by the twentieth day of the month detailing the total number of searches of the databases, the number of matches found, the amount of jackpot winnings withheld, the amount of administrative fees retained for the preceding month, and a breakdown of the amount withheld for each database.

G.1. In the event the database is off-line when a search is made, a licensee shall not be responsible for intercepting cash winnings provided it prints a copy of the screen notification that the system is inaccessible, records the name and prize amount for the winning patron, and timely notifies the appropriate database contact for each database down, of the error to ensure the technical difficulty is not with the licensee. The unavailability of the database shall not affect interception requirements for second or later progressive slot machine annuity payments.

2. Licensees may notify the appropriate database operator that the database is either off-line or experiencing other technical difficulties by electronic mail sent to an address provided by the appropriate database operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 37:1415 (May 2011), amended LR 41:

#### **Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.2737.

It is accordingly concluded that amending LAC 42:III.2737 would appear to have no impact on the following:

- 1. the effect on stability of the family;
- 2. the effect on the authority and rights of parents regarding the education and supervision of their children;
- 3. the effect on the functioning of the family;

- 4. the effect on family earnings and family budget;
- 5. the effect on the behavior and personal responsibility of children;
- 6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.2737.

It is accordingly concluded that amending LAC 42:III.2737 would appear to have no impact on the following:

- 1. the effect on household income, assets, and financial security;
- 2. the effect on early childhood development and preschool through postsecondary education development;
- 3. the effect on employment and workforce development;
- 4. the effect on taxes and tax credits;
- 5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Statement**

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:III.2737 is amended as the change will not apply to small businesses.

#### **Provider Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:III.2737.

It is accordingly concluded that amending LAC 42:III.2737 would appear to have no impact on the following:

- 1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
- 2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
- 3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

All interested persons may submit comments relative to this proposed Rule, through May 11, 2015, to Earl Pitre, Jr., Assistant Attorney General, at Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Casino Gaming Payment Interception**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. This rule change codifies current practice as a result of Act 816 of the 2014 Regular Legislative Session. Act 816 provides the procedure for licensees and permittees to follow when determining whether a winning patron owes a debt to a



state agency once the single point inquiry system that allows for searches of one or more real-time databases containing debt information is made available. Debts owed to the Department of Children and Family Services will maintain their priority over debts from this system in accordance with state law.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will have no effect on costs or economic benefits to directly affected persons or nongovernmental units.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1504#080

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

Internal Controls; Tips or Gratuities (LAC 42:III.2721)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:III.2721.

**Title 42**

**LOUISIANA GAMING**

**Part III. Gaming Control Board**

**Chapter 27. Accounting Regulations**

**§721. Internal Controls; Tips or Gratuities**

A. ...

B. No key gaming employee or any other gaming employee who serves in a supervisory position as outlined in the internal controls, shall accept a tip or gratuity on behalf of themselves. However an employee serving in a supervisory position may handle, transport and temporarily possess a tip on behalf of an eligible employee in accordance with the licensee's internal controls.

C. ...

D. All tips and gratuities given to dealers at table games, including poker dealers, shall be handled as described in the licensee's internal controls. Those controls should use one of the following methods.

**1. Pooling of tips:**

a. immediately deposited in a transparent locked box reserved for that purpose. If non-value chips are received at a roulette table, the marker button indicating their specific value shall not be removed from the slot or receptacle attached to the outer rim of the roulette wheel until after a dealer in the presence of a supervisor has converted the non-value chips into value chips. Procedures for accepting non-value chips received as tips shall be defined in the internal controls;

b. counted and recorded by a randomly selected dealer and a randomly selected employee who is independent of the tips being counted; and

c. placed in a pool for pro rata distribution among the dealers on a basis that coincides with the normal pay period. Tips or gratuities from this pool shall be deposited into the licensee's or casino operator's payroll account. Distributions to dealers from this pool shall be made in accordance with the payroll accounting practices and shall be subject to all applicable state and federal withholding taxes.

2. A licensee or casino operator may elect to handle tips generated by dealers separately from the pro rata distribution pool. Tips or gratuities may be assigned to the dealer generating the tip or gratuity, and the following procedures shall be used.

a. Each dealer shall have a locked transparent box marked with his name or otherwise coded for identification. Keys to these boxes shall be maintained by the cage department. When not in use, these boxes shall be stored in a locked storage cabinet or other approved lockable storage in the poker room. Keys to the storage cabinet shall be maintained and used as specified in the internal controls.

b. When a dealer arrives at his assigned table, the dealer shall obtain his marked transparent locked box. The box shall be placed at the table. If the dealer leaves the table, the dealer's marked box shall be removed from the table by the dealer and secured.

c. At the end of the dealer's shift, the dealer shall take that dealer's marked transparent locked box to the cage for counting. The cage employee shall unlock, empty, and relock the box. The cage employee shall count the contents of the box in the presence of the dealer. The amount shall be recorded on a three-part voucher and signed by the cage employee and the dealer. The three parts of the voucher shall be distributed as follows:

- i. one part shall be given to the dealer;
- ii. one part shall be maintained by the cage; and
- iii. one part shall be forwarded to the payroll department.

d. Tips or gratuities shall be deposited into the licensee's or casino operator's payroll account. Distribution to the dealer shall be made in accordance with the payroll accounting practices and shall be subject to all applicable state and federal withholding taxes and regulations. No distributions shall be made to the dealer in any other manner.

e. A poker room dealer may tip any cashier working as the poker room cashier during the poker room dealer's shift. Any such tip shall be handled when the poker room dealer's tips are counted as defined in this Section. A section of the dealer's tip voucher shall be marked to allow the dealer to indicate which cashier(s) the dealer wishes to tip and the amount. The tip shall be deducted from the dealer's total tips at the time of the count. Tips given to a cashier in this manner shall be distributed to the cashier in accordance with the payroll accounting practices and shall be subject to all applicable state and federal withholding taxes and regulations. No tips from a poker room dealer shall be made to a cashier in any other manner.

E. Upon receipt from a patron of a tip or gratuity, a dealer assigned to the gaming table shall extend his arm in an overt motion and deposit such tip or gratuity in the transparent locked box reserved for such purpose.

F. All tips received by employees not covered in Subsection D of this Section shall be deposited into the

licensee's or casino operator's payroll account and distributed to employees in accordance with the internal controls. Distributions to employees from this pool shall be made following the payroll accounting practices and shall be subject to all applicable state and federal withholding taxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1640 (July 2012), amended LR 41:

#### **Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.2721.

It is accordingly concluded that amending LAC 42:III.2721 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.2721.

It is accordingly concluded that amending LAC 42:III.2721 would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Statement**

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:III.2721 is amended as the change will not apply to small businesses.

#### **Provider Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:III.2721.

It is accordingly concluded that amending LAC 42:III.2721 would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

All interested persons may submit comments relative to this proposed Rule, through May 11, 2015, to Earl Pitre, Jr., Assistant Attorney General, at Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Internal Controls; Tips or Gratuities**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. The proposed rule change is intended to establish the manner in which tips are handled, whether tips are pooled or separate from the pro rata distribution pool. The rule change will allow key gaming employees or other gaming employees serving in supervisory positions to handle, transport or temporarily possess a tip of an eligible employee in accordance with the licensee's internal controls. However, key gaming employees or other gaming employees serving in supervisory positions may not accept tips for themselves.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no effect on revenue collections of state or local governmental units.

##### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will have no effect on costs or economic benefits to directly affected persons or non-governmental units.

##### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1504#081

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

#### **NOTICE OF INTENT**

#### **Department of Public Safety and Corrections Gaming Control Board**

Key Gaming Employee (LAC 42:III.1701)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:III.1701.

#### **Title 42**

#### **LOUISIANA GAMING**

#### **Part III. Gaming Control Board**

#### **Chapter 17. General Provisions**

#### **§1701. Definitions**

A. - B. ...

\* \* \*

*Key Gaming Employee*—an employee, agent or representative of a licensee, casino operator or permittee, whether or not a gaming employee, who holds or exercises

critical or significant management or operating authority over the casino operator, licensee or permittee. Key gaming employee includes, but is not limited to:

- a. - c. ...
- d. Repealed.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 27:15 and 24.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1601 (July 2012), amended LR 41:

#### **Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.1701.

It is accordingly concluded that amending LAC 42:III.1701 would appear to have no impact on the following:

- 1. the effect on stability of the family;
- 2. the effect on the authority and rights of parents regarding the education and supervision of their children;
- 3. the effect on the functioning of the family;
- 4. the effect on family earnings and family budget;
- 5. the effect on the behavior and personal responsibility of children;
- 6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.1701.

It is accordingly concluded that amending LAC 42:III.1701 would appear to have no impact on the following:

- 1. the effect on household income, assets, and financial security;
- 2. the effect on early childhood development and preschool through postsecondary education development;
- 3. the effect on employment and workforce development;
- 4. the effect on taxes and tax credits;
- 5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Statement**

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:III.1701 is amended as the change will not apply to small businesses.

#### **Provider Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:III.1701.

It is accordingly concluded that amending LAC 42:III.1701 would appear to have no impact on the following:

- 1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
- 2. the total direct and indirect effect on the costs to the provider to provide the same level of service;

- 3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

All interested persons may submit comments relative to this proposed Rule, through May 11, 2015, to Earl Pitre, Jr., Assistant Attorney General, at Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Key Gaming Employee**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will have no effect on state or local governmental expenditures. This rule change codifies current practice as a result of Act 738 of the 2014 Regular Legislative Session. Act 738 removes the opinion of the board when determining suitability. The rule change removes the words "or Managerial Employee" from the defined term of "Key Gaming Employee" and removes the definition that referenced managerial representatives.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will have no effect on costs or economic benefits to directly affected persons or nongovernmental units. Currently, the rule has Key Gaming Employee or Managerial Employee as the defined term. The rule change removes the words "or Managerial Employee" from the defined term. The rule change also removes the definition that referenced managerial representatives.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition or employment.

Ronnie Jones  
Chairman  
1504#085

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Public Safety and Corrections Gaming Control Board**

#### **Licenses and Permits—Suitability Determination (LAC 42:III.2109)**

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:III.2109.

#### **Title 42**

#### **LOUISIANA GAMING**

#### **Part III. Gaming Control Board**

#### **Chapter 21. Licenses and Permits**

#### **§2109. Suitability Determination**

A. ...

B. In accordance with R.S. 27:28, any person, who has the ability or capacity to exercise significant influence over the activities of an applicant, licensee, casino operator or permittee shall be required to submit to an investigation to determine suitability.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1610 (July 2012), amended LR 41:

#### **Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.2109.

It is accordingly concluded that amending LAC 42:III.2109 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.2109.

It is accordingly concluded that amending LAC 42:III.2109 would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Statement**

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:III.2109 is amended as the change will not apply to small businesses.

#### **Provider Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:III.2109.

It is accordingly concluded that amending LAC 42:III.2109 would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;

3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

All interested persons may submit comments relative to this proposed Rule, through May 11, 2015, to Earl Pitre, Jr., Assistant Attorney General, at Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Licenses and Permits Suitability Determination**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. This rule change codifies current practice as a result of Act 738 of the 2014 Regular Legislative Session. Act 738 states that the board or division may consider but is not limited to the following when determining whether a person has the ability or capacity to exercise significant influence: management and decision-making authority, operational control, financial relationship, receipt of gaming revenue or proceeds, financial indebtedness and gaming related associations. Also, Act 738 removes the opinion of the board when determining suitability.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will have no effect on costs or economic benefits to directly affected persons or non-governmental units.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1504#083

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Public Safety and Corrections Gaming Control Board**

Managerial Representative on Premises (LAC 42:III.2955)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:III.2955.B.

#### **Title 42**

#### **LOUISIANA GAMING**

#### **Part III. Gaming Control Board**

#### **Chapter 29. Operating Standards**

#### **§2955. Managerial Representative on Premises**

A. ...

B. Each licensee and casino operator shall provide, in writing, a current list of all managerial representatives on premises. Each managerial representative on premises shall have a valid current key or non-key gaming employee permit and shall be approved by the division. Employees acting as managerial representatives on behalf of the licensee or casino operator shall be selected from gaming permitted positions of managerial level or higher.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 27:15 and 24.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1661 (July 2012), amended LR 41:

#### **Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.2955.B.

It is accordingly concluded that amending LAC 42:III.2955.B would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.2955.B.

It is accordingly concluded that amending LAC 42:III.2955.B would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Statement**

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:III.2955.B is amended as the change will not apply to small businesses.

#### **Provider Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has

considered the potential provider impact of amending LAC 42:III.2955.B.

It is accordingly concluded that amending LAC 42:III.2955.B would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

All interested persons may submit comments relative to this proposed Rule, through May 11, 2015, to Earl Pitre, Jr., Assistant Attorney General, at Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Managerial Representative on Premises**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will have no effect on state or local governmental expenditures. The proposed rule change expands the pool of employees from which the licensees or casino operator can select to be managers. The pool of applicants includes both key gaming employees and non-key gaming employees. Prior to the rule change, licensees or casino operators could only choose from key gaming employees to be managers. The proposed rule change quantifies that the employee acting as a managerial representative on behalf of the licensee or casino operator shall be selected from gaming permitted positions of managerial level or higher.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change may result in economic benefits to directly affected persons or non-governmental units as a result of expanding the pool of employees to be managers. Non-key gaming employees that are chosen to be managers may receive pay increases as a result of acting as a managerial representative.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1504#078

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Gaming Control Board

Non-Gaming Suppliers (LAC 42:III.2108)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:III.2108.C.

#### Title 42

#### LOUISIANA GAMING

#### Part III. Gaming Control Board

#### Chapter 21. Licenses and Permits

#### §2108. Non-Gaming Suppliers

A. - C.11. ...

12. nationwide shipping services, including Federal Express, United Parcel Service, Airborne Express and Emory Freight;

13. publicly traded companies or wholly owned subsidiaries of publicly traded companies subject to regulation by the Securities and Exchange Commission, who are in good standing and are current with required filings; and

14. professional sports and racing teams regulated by national sanctioning bodies.

D. - I.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1609 (July 2012), amended LR 41:

#### Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.2108.C.

It is accordingly concluded that amending LAC 42:III.2108.C would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.2108.C.

It is accordingly concluded that amending LAC 42:III.2108.C would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### Small Business Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:III.2108.C is amended as the change will not apply to small businesses.

#### Provider Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:III.2108.C.

It is accordingly concluded that amending LAC 42:III.2108.C would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

All interested persons may submit comments relative to this proposed Rule, through May 11, 2015, to Earl Pitre, Jr., Assistant Attorney General, at Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Non-Gaming Suppliers

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no effect on state or local governmental expenditures. The rule change adds professional sports and racing teams regulated by national sanctioning bodies to the list of those who are exempt from obtaining a non-gaming supplier permit.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units. The addition of professional sports and racing teams regulated by national sanctioning bodies to the exemption list for not obtaining a non-gaming supplier permit will not result in a decrease in permit fees since these groups currently receive fee waivers.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no effect on costs or economic benefits to directly affected persons or non-governmental units.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1504#084

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Gaming Control Board

Progressive Electronic Gaming Devices (LAC 42:III.4204)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:III.4204.D.4.

#### Title 42

#### LOUISIANA GAMING

#### Part III. Gaming Control Board

#### Chapter 42. Electronic Gaming Devices

#### §4204. Progressive Electronic Gaming Devices

A. - D.3.e. ...

4. Unless otherwise approved by the division, all progressive jackpot transfers shall be prominently posted at or near the applicable EGD at least seven days in advance of the requested transfer date.

D.5. - P.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1672 (July 2012), amended LR 41:

#### Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.4204.

It is accordingly concluded that amending LAC 42:III.4204 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.4204.

It is accordingly concluded that amending LAC 42:III.4204 would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### Small Business Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:III.4204 is amended as the change will not apply to small businesses.

#### Provider Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:III.4204.

It is accordingly concluded that amending LAC 42:III.4204 would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

All interested persons may submit comments relative to this proposed Rule, through May 11, 2015, to Earl Pitre, Jr., Assistant Attorney General, at Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Progressive Electronic Gaming Devices

##### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no effect on state or local governmental expenditures. The proposed rule change shortens the time period for notifications on all progressive jackpot transfers in electronic gaming devices from 14 days to 7 days.

##### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

##### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no effect on costs or economic benefits to directly affected persons or non-governmental units. The amounts industry transfers between electronic devices will not be affected as a result of decreasing the days a notice must be posted from 14 days to 7 days. Notification of transfers between electronic devices is given to patrons of the facility through signs placed near machines and the Office of State Police, Gaming Enforcement.

##### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1504#077

Evan Brasseux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Gaming Control Board

Tax Clearance Required of an Applicant, Licensee or Permittee (LAC 42:III.2114)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:III.2114.A.

#### Title 42

#### LOUISIANA GAMING

#### Part III. Gaming Control Board

#### Chapter 21. Licenses and Permits

#### §2114. Tax Clearances Required of an Applicant, Licensee or Permittee

A. The applicant, its officers, directors, any person with an economic interest of at least 5 percent in an applicant and any person who has the ability or capacity to exercise significant influence over the activities of the applicant shall provide tax clearances from the appropriate state agencies prior to the granting of a license or permit.

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1612 (July 2012), amended LR 41:

#### Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.2114.A.

It is accordingly concluded that amending LAC 42:III.2114.A would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.2114.A.

It is accordingly concluded that amending LAC 42:III.2114.A would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

## Small Business Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:III.2114.A is amended as the change will not apply to small businesses.

## Provider Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:III.2114.A.

It is accordingly concluded that amending LAC 42:III.2114.A would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

## Public Comments

All interested persons may submit comments relative to this proposed Rule, through May 11, 2015, to Earl Pitre, Jr., Assistant Attorney General, at Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Tax Clearance Required of an Applicant, Licensee or Permittee

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. The rule change will remove the requirement that the applicant for a casino gaming license or permit obtain a tax clearance certificate from the Internal Revenue Service and codifies Act 738 of 2014 into rule. The rule change has the potential to accelerate the investigative processing of original and renewal applications for State Troopers assigned to the Gaming Enforcement Division by not having to investigate whether an applicant is current in the filing and payment of taxes with the Internal Revenue Service. Act 738 removes the opinion of the board when determining suitability.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no effect on costs or economic benefits to directly affected persons or non-governmental units.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1504#082

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office



## NOTICE OF INTENT

### Department of Public Safety and Corrections Gaming Control Board

#### Video Draw Poker—Application and License (LAC 42:XI.2405)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24 it intends to amend LAC 42:XI.2405.

#### Title 42

#### LOUISIANA GAMING

#### Part XI. Video Poker

#### Chapter 24. Video Draw Poker

#### §2405. Application and License

A.1. - A.7. ...

8. All renewal applications, shall be submitted in completed form, including a Louisiana State Sales Tax Clearance Certificate. Out-of-state manufacturers shall not be required to submit a Louisiana State Sales Tax Clearance Certificate.

A.9. - B.4.a. ...

b. Sales tax clearance certificates from the state and all appropriate local taxing authorities shall be submitted to the division along with the annual fee as provided in Subparagraph B.4.a of this Section no later than July 1 of each year.

5. - 10.a. ...

b. If surrendered in accordance with Subparagraph B.10.a of this Section, no gaming activities may be conducted at the premises unless and until the license is returned to the licensee.

c. ...

d. Licenses surrendered in accordance with Subparagraph B.10.a of this Section shall not be subject to renewal unless the license has been returned to the licensee.

e. Failure to surrender the license as provided in Subparagraph B.10.a of this Section shall constitute grounds for revocation or suspension of the license.

11.a. Within 15 days following a force-majeure event which has not affected video poker operation but necessitates closing any part of the licensed entity in order to make repairs, a licensee shall notify the division which may, following an on-site inspection to evaluate damage to the premises, grant the licensee a 60-day waiver from the provisions of Subparagraph B.10.a of this Section.

B.11.b. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 29:362 (March 2003), LR 30:267 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 34:1037 (June 2008), LR 35:82 (January 2009), repromulgated LR 35:490 (March 2009), amended LR 36:2045 (September 2010), LR 38:2935 (November 2012), LR 40:1105, 1109 (June 2014), repromulgated LR 40:1382 (July 2014), amended LR 40:1384 (July 2014), amended LR 41:

#### Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.2955.B.

It is accordingly concluded that amending LAC 42:III.2955.B would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.2955.B.

It is accordingly concluded that amending LAC 42:III.2955.B would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### Small Business Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:III.2955.B is amended as the change will not apply to small businesses.

#### Provider Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:III.2955.B.

It is accordingly concluded that amending LAC 42:III.2955.B would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

All interested persons may submit comments relative to this proposed Rule, through May 11, 2015, to Earl Pitre, Jr., Assistant Attorney General, at Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Video Draw Poker  
Application and License**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. The rule change is intended to clarify that the sales tax clearance certificate is required to be submitted with all renewal applications and the associated annual fee regardless of the expiration date of the license.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will not impact revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will only affect those applicants who are found to not be current in sales tax clearance filings.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule changes will have no effect on competition or employment.

Ronnie Jones  
Chairman  
1504#076

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

**Video Draw Poker—Penalty Schedule (LAC 42:XI.2424)**

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:XI.2424.B.

**Title 42  
LOUISIANA GAMING  
Part XI. Video Poker**

**Chapters 1- 23. Reserved**

**Chapter 24. Video Draw Poker**

**§2424. Enforcement Actions of the Board**

- A. ...
- B. Penalty Schedule

Regulation Number	Violation Description	1st	2nd	3rd
<b>Application and License</b>				
* * *				
<b>Video Gaming Devices</b>				
* * *				
<b>Revenues</b>				
2409 C3b	Insufficient Funds Available For Electronic Transfer— (fine as shown on the right plus interest as per 2409.C.3.d)	250	500	1000 or Admin Action
* * *				
<b>Regulatory, Communication, and Reporting Responsibilities</b>				
* * *				

Regulation Number	Violation Description	1st	2nd	3rd
<b>Devices</b>				
* * *				
<b>Gaming Establishments</b>				
* * *				
<b>Code of Conduct of Licensee</b>				
* * *				
<b>Investigations</b>				
* * *				
<b>Miscellaneous</b>				
* * *				

C. - D. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 33:4862.1 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Gaming Control Board. LR 36:2874 (December 2010), amended LR 38:2936 (November 2012), LR 40:1106, 1107, 1108, 1110 (June 2014), repromulgated LR 40:1383 (July 2014), amended LR 40:1385, 1385, 1386 (July 2014), LR 41:

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.2955.B.

It is accordingly concluded that amending LAC 42:III.2955.B would appear to have no impact on the following:

- the effect on stability of the family;
- the effect on the authority and rights of parents regarding the education and supervision of their children;
- the effect on the functioning of the family;
- the effect on family earnings and family budget;
- the effect on the behavior and personal responsibility of children;
- the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.2955.B.

It is accordingly concluded that amending LAC 42:III.2955.B would appear to have no impact on the following:

- the effect on household income, assets, and financial security;
- the effect on early childhood development and preschool through postsecondary education development;
- the effect on employment and workforce development;
- the effect on taxes and tax credits;
- the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Small Business Statement**

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:III.2955.B is amended as the change will not apply to small businesses.

### Provider Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:III.2955.B.

It is accordingly concluded that amending LAC 42:III.2955.B would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

### Public Comments

All interested persons may submit comments relative to this proposed Rule, through May 11, 2015, to Earl Pitre, Jr., Assistant Attorney General, at Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Video Draw Poker Penalty Schedule

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. The proposed rule change reduces penalty amounts for first and second offenses and adds a dollar amount for third offense for Insufficient Funds Available for Electronic Transfer. Licensed device owners are required to authorize State Police, Gaming Enforcement Division to electronically transfer funds, such as franchise payments, from their accounts into the designated bank of the state treasurer. Any account that has insufficient funds would be a violation of the rules and law.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not impact revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have an affect on costs or economic benefits to directly affected persons or non-governmental groups depending on the offense committed. This rule change codifies current practice and corrects previous promulgation errors. The rule change provides for the penalty schedule in LAC 42:XI.242.B to be consistent with R.S. 27:435(F)(2) by reducing the penalty amounts from \$500 to \$250 for first offense, from \$1,000 to \$500 for a second offense and from administrative action to \$1,000 or administrative action for a third offense. Also, the rule change will correct the citation in the penalty schedule. Further, the rule change will add a reference in the description of the penalty to include the fine plus interest.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1504#075

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Public Safety and Corrections Office of the State Fire Marshal

Buildings; Observation of Construction; Final Inspection  
(LAC 55:V.307)

The Department of Public Safety and Corrections, Office of State Fire Marshal, in accordance with R.S. 49:950 et seq., and R.S. 40:1651 et seq., gives notice of its intent to amend its rules regulating professionals of record to allow agricultural engineers to act as professionals of record.

### Title 55

### PUBLIC SAFETY

#### Part V. Fire Protection

#### Chapter 3. Buildings

#### §307. Observation of Construction; Final Inspection

A. For a structure which by law may only be constructed with plans prepared and certified by a licensed architect, civil engineer, or agricultural engineer, it shall be the duty of the owner of such a structure to provide for periodic observation of the construction of the structure to determine if the work is proceeding in accordance with the plans and specifications as approved by the fire marshal. The observations shall be performed by a registered architect, registered civil engineer, or registered agricultural engineer.

B. Upon completion of such work, where the law requires the owner to engage an architect, registered civil engineer, or registered agricultural engineer, the owner shall furnish to the fire marshal a certificate signed by a registered architect, registered civil engineer, or registered agricultural engineer, stating that the periodic observations have been made and that to the best of the architect's or engineer's knowledge, information and belief, the work was completed in accordance with those fire safety standards and regulations stipulated in the plans and specifications previously approved by the fire marshal. When the owner has not engaged an architect, registered civil engineer, or registered agricultural engineer, and the same is not required by law, the owner must submit the certificate of completion when appropriate, but always under his signature.

C. Occupancy of a structure, watercraft or movable prior to furnishing a certificate to the fire marshal as required under this regulation is expressly forbidden by the fire marshal, unless and until a satisfactory inspection has been made by the fire marshal or his certified representative.

D. In order to comply with the requirements of §307.B, the owner must submit to the fire marshal the following certificate completed by the architect, civil engineer,

agricultural engineer, or, if an architect, civil engineer, or agricultural engineer is not required by law, the owner.

CERTIFICATE OF COMPLETION

Date:

TO: The Louisiana State Fire Marshal  
5150 Florida Boulevard  
Baton Rouge, Louisiana 70806

This is to certify that the \_\_\_\_\_  
(name of project by title)

for \_\_\_\_\_ located at \_\_\_\_\_  
(type of use) (street/number/name)

as periodically observed by me, by my consultants, and/or by others in my employ during construction and, to the best of my knowledge, information and belief, has been completed in accordance with the safety provisions which were shown in the plans and specifications previously approved by the fire marshal.

Under penalty of law for false statement,

I \_\_\_\_\_ License Number: \_\_\_\_\_  
(name of architect/civil engineer/agricultural engineer  
or owner if architect or engineer  
is not required)

certify that all statements contained therein are, to the best of my knowledge, information and belief, true and correct.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1651(B).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety, Office of Fire Protection, LR 3:498 (December 1977), repromulgated LR 6:73 (February 1980), amended by the Office of the State Fire Marshal, LR 8:523 (October 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1692 (December 1997), LR 41:

**Family Impact Statement**

1. The Effect of this Rule on the Stability of the Family. This Rule should not have any effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule should not have any effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule should not have any effect on family earnings and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. These rules should not have any effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

**Small Business Statement**

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments to Justin Bello, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through May 15, 2015.

Jill P. Boudreaux  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Buildings; Observation  
of Construction; Final Inspection**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule change. The proposed rule adds "agricultural engineer" to the list of individuals who may prepare plans for construction on behalf of an owner, who may provide periodic observation of the work, and who may provide the Certificate of Completion indicating that the work has been completed in accordance with the safety provisions that were shown in the plans and specifications previously approved by the fire marshal.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule change. The proposed rule will allow agricultural engineers, who were previously unable to submit building plans to the Office of State Fire Marshal, to

submit such plans. This will not require new costs, workload adjustments, or additional paperwork.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Jill P. Boudreaux  
Undersecretary  
1504#088

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Revenue Policy Services Division

#### Louisiana Tax Credit Registry (LAC 61:III.2701 and 2705)

Under the authority of R.S. 47:1511, 1524, 1602, 1675, 6007 and 6019 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:III.2701 and 2705.

Pursuant to Act 418 of the 2013 Regular Legislative Session, a centralized registration and recordation system is established for transferable tax credits granted, issued and authorized by the state of Louisiana to be applied against taxes collected by the Department of Revenue. This proposed Rule also establishes transfer fees for transferable tax credits including the motion picture investor tax credit and historic rehabilitation credit.

#### Title 61

#### REVENUE AND TAXATION

#### Part III. Administrative Provisions and Miscellaneous Chapter 27. Transferable Income and Franchise Tax Credits

#### §2701. Louisiana Tax Credit Registry

A. This Section is applicable to transferable tax credits granted, issued or authorized by the state that are applied against taxes collected by the Louisiana Department of Revenue.

##### B. Definitions

*Department*—Louisiana Department of Revenue.

*Issuing Agency*—the agency with statutory authority to certify the dollar value of tax credits earned.

*Secretary*—the secretary of Revenue.

*Transfer*—for purposes of this Section, “transfer” means an assignment, disposition, sale, or any other change in ownership including changes in ownership resulting from a flow through or allocation.

C. Initial Registration. Beginning January 1, 2014, all state agencies issuing transferable tax credits shall furnish the department an agency certification of credit, form (R-6121) or another form approved by the secretary the same date the credits are issued to the earner of the credit.

1. The department shall assign an identifying number and record the tax credit into the registry and issue a credit registration form (R-6135) to the earner of the credit. The credit registration form will contain the unique identifying number of the credit registered and information regarding the use of the credit. The initial registration date shall be the date the agency certification of credit is received by the department along with any other supporting documents issued to the earner by the issuing agency. The tax credit will

not be recorded unless the agency’s certification of credit and all supporting documents are received.

2. The department shall warrant the validity of the information recorded in the registry for tax credits issued after January 1, 2014, except as provided in Subsection G.

3. No issuance of tax credits by an issuing agency shall be effective as to third parties nor recognized by the department until it has been recorded in the registry.

D. Transfers. Joint notice from the transferor and transferee and any applicable transfer fees are due to the department within ten business days of the transfer of any transferable credits. The registration date will be the date of the transfer unless the joint notice and applicable fees are not received within 10 business days of the transfer in which case the effective date of transfer will be the date the notice and applicable fee are received by the department. No transfer shall be effective as to third parties nor recognized by the department until it has been recorded in the registry. Transfers will not be recorded in the registry until the department receives the applicable transfer fee.

1. Transfers to a taxpayer. Joint notice from the transferor and transferee must be submitted to the department on the credit utilization form (R-6140, Section 3). In addition to the credit utilization form, the transferor and the transferee must attach the following:

a. a copy of the transferor’s credit registration form (R-6135);

b. a copy of the contract of sale or allocation agreement;

c. the applicable transfer fee.

2. Upon receipt of the credit utilization form and the required attachments, the department shall record the transfer of the tax credit in the registry and issue a credit registration form to the transferee as the new owner of the credit. The transferee may authorize a representative to receive the credit registration form by submitting a completed transferee’s tax credit information disclosure authorization, R-6145, with the credit utilization form.

3. Transfers to the state. When authorized by the statute creating the transferable tax credit, to transfer a credit to the state the owner will submit a completed credit utilization form (R-6140, Section 1), a copy of the credit registration form and the applicable transfer fee.

##### E. Transfer Fees

1. Motion Picture Investor Tax Credit. The transfer fee per transferee is \$200.

2. Historic Rehabilitation Tax Credit. Beginning July 1, 2014, the transfer fee per transferee is \$200.

3. All other transferable tax credits. The transfer fee is \$200 per transferee, unless the statute creating the credit does not authorize a fee or authorizes a different maximum amount. If the statute creating the credit provides for a different maximum fee, then the fee is the maximum fee authorized.

4. The applicable transfer fee must be submitted with every transfer, including transfers to the state.

F. Record Owner Report. The information contained in the registry and in the possession of the department relative to tax credits is confidential, privileged and protected by the provisions of R.S. 47:1508. However, the owner of the credit may submit a written request by letter or email for a record owner report. The request must contain the name and

address of the owner and the unique identifying number of the credit from the credit registration form. The department will issue a record owner report to the owner stating the credit balance as of the date the report is issued. The balance will not reflect any amount of tax credit claimed on a tax return that has been filed but has not been processed, any transfers of credit that have not yet been recorded in the registry, or utilizations of the tax credit as a payment that have not been processed.

G. Disallowance and recapture. A tax credit shall be disallowed and recaptured if the department or issuing agency finds that an individual or entity obtained a tax credit in violation of the provisions of the authorizing statute or by fraud or misrepresentation.

1. Any tax credit previously granted to an individual or entity but later disallowed either by the department or the issuing agency may be recovered by the department using any applicable method authorized by law.

2. If the transferor did not have the right to claim or use the tax credit at the time of the transfer, the transferee's recourse shall be against the transferor as provided by their agreement, unless determined by the department to be a good faith transferee and the credit has already been utilized by the good faith transferee.

3. A transferee will be determined to be in good faith if, at the time of the transfer, the transferor provided a credit registration form and a record owner report showing the validity of the credit to the transferee and honesty in fact and reasonable commercial standards of fair dealing were observed prior to the transfer.

4. A good faith transferee who relied on the validity of the credits recorded in the registry shall not be subject to recapture and recovery if the credits have already been allowed on a return or utilized as a payment at the time when the violation is discovered. Any credits that have not been allowed as a credit on a return or utilized as a payment when the violation is discovered cannot be utilized subsequent to the violation.

5. Notwithstanding any other provision of law, the department may recapture any amounts and other damages from any party involved in the transfer determined not to be in good faith using any of the collection remedies authorized to the secretary by law.

H. In the case of disputed title to tax credits, prescription against assessment shall be suspended as by:

1. the filing of a summary proceeding in any state or federal court. In this instance a copy of the petition shall be filed in the registry by the petitioner;

2. a written agreement between the department and the taxpayer. In this instance a copy of the agreement shall be recorded in the registry on the same date executed;

3. any pleading filed with the Board of Tax Appeals. In this instance a copy of the pleading shall be filed in the registry on the same date filled at the Board of Tax Appeals by the taxpayer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 1524, 1602, 1675, 6007 and 6019.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 41:

## **§2705. General Administrative Provisions for Income and Franchise Tax Credits**

### **A. Transferable Tax Credits**

1. If a person acquires a credit through transfer, the credit is property and can be used to satisfy any outstanding tax liability for the tax against which the credit was originally earned. In this Section, the word "transfer" refers to credits acquired by any means other than by flow through or allocation.

2. Utilization of Transferable Tax Credits by a Transferee

a. A tax credit cannot be claimed on a tax return or utilized as a payment prior to the transfer date of the creditor the effective date of transfer as provided by §2701.D.

b. Utilizing a transferable tax credit as a tax credit on an original or amended return. To claim the credit on a tax return, the taxpayer must attach a completed credit utilization form and a copy of the credit registration form to the return and the effective date of the transfer of the credit must be on or before the due date of the tax. For calendar year taxpayers, the due date of the corporation income tax is April 15 and the due date of the individual income tax is May 15.

c. Utilizing a transferable tax credit as a payment of tax. To utilize a credit after the due date of the tax, the taxpayer must submit a transferable credit payment voucher (R-6170) and a copy of the credit registration form (R-6135) to the tax credit registry.

3. A credit acquired through transfer can be applied to any allowable tax liability that is still due for the year the credit was originally earned and still due for any year afterward until the applicable carry-forward period is over. Penalties and interest will continue to accrue until the taxes on which such penalties and interest are accruing are paid. If the taxpayer's tax liability is not paid by withholdings, estimated tax payments or other payments by the due date of the return, the taxpayer may be liable for applicable underpayment penalties and interest even if they have an extension to file and intend to use tax credits on their return to extinguish their remaining tax liability. For tax years prior to the date of the transfer, the credit can only be used as a payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 1524, 1602, 1675, 6007 and 6019.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 41:

### **Family Impact Statement**

This Family Impact Statement is provided as required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

5. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

#### **Poverty Impact Statement**

The proposed Rule will have no impact on poverty as described in R.S. 49:973.

#### **Provider Impact Statement**

The proposed amendments will have no known or foreseeable effect on:

1. the staffing levels requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written data, views, arguments, or comments regarding this proposed Rule to the Policy Services Division, by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be received no later than 5 p.m., May 28, 2015.

#### **Public Hearing**

A public hearing will be held on May 29, 2015, at 10 a.m. in the River Room, on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Tim Barfield  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Louisiana Tax Credit Registry**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This proposed Rule requires state agencies administering transferable tax credits to send identifying information to the Department of Revenue to be entered into a centralized electronic tax registry database. The Rule also establishes the transfer fee for transferable tax credits including the Historic Rehabilitation Credit, which will help fund the tax credit registry, and provides for general administrative provisions for transferable Income and Franchise Tax Credits. Any additional costs will be absorbed in the existing budget.

Local governmental units are not affected by this proposal.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed Rule calls for a fee for when the Historic Rehabilitation Tax Credit is transferred that will be paid to the Department of Revenue. This fee will be used to pay for the administrative and other costs necessary to transfer the credit to another user. LDR estimates approximately 1,800 transfers will occur per year with a flat fee of \$200 per transfer, a projected increase of \$360,000 per year in self-generated revenues for LDR. Fees will not begin to be collected until promulgation of this rule. The proposed rule has no effect on the amount of tax due or collected or credits being certified. The proposed rule outlines good faith provisions for disallowed credits in order to assign recourse against the transferee or transferor.

This proposal should have no impact on the revenue collections of local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Taxpayers purchasing or selling tax credits will be affected by this proposal to the extent they incur fees upon transfer. Also, brokers in the business of facilitating the sale of tax credits will be affected by this proposal since additional fees may be associated with transfer transactions. These impacts are in direct correlation to the fees collected in Section II.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed Rule has no effect on competition or employment.

Tim Barfield  
Secretary  
1504#074

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Recreational Reef Sites and Restriction of Oyster Harvest (LAC 76:VII.537)**

Pursuant to Act 84 of the 2012 Regular Legislative Session and in an effort to enhance inshore fisheries habitat and recreational fishing opportunities, the Wildlife and Fisheries Commission does hereby give notice of its intent to establish the following administrative Rule to designate and set aside certain water bottoms as recreational reefs and to restrict all harvest of oysters thereon.

#### **Title 76**

#### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

#### **Chapter 5. Oyster**

#### **§537. Establishment of Recreational Reef Sites and Restriction of Oyster Harvest**

A. The Wildlife and Fisheries Commission hereby establishes the following recreational reef sites:

1. California Point-Plaquemines Parish
  - a. 29 degrees 29 minutes 08.86 seconds N  
89 degrees 29 minutes 11.15 seconds W
  - b. 29 degrees 29 minutes 08.63 seconds N  
89 degrees 28 minutes 54.46 seconds W
  - c. 29 degrees 28 minutes 54.02 seconds N  
89 degrees 28 minutes 54.73 seconds W
  - d. 29 degrees 28 minutes 54.25 seconds N  
89 degrees 29 minutes 11.42 seconds W
2. Bay Ronquille-Plaquemines Parish
  - a. 29 degrees 19 minutes 52.76 seconds N  
89 degrees 50 minutes 34.16 seconds W
  - b. 29 degrees 20 minutes 02.34 seconds N  
89 degrees 50 minutes 24.99 seconds W
  - c. 29 degrees 20 minutes 01.34 seconds N  
89 degrees 50 minutes 40.21 seconds W
  - d. 29 degrees 20 minutes 09.09 seconds N  
89 degrees 50 minutes 44.75 seconds W
3. St. Tammany (east)-St. Tammany Parish
  - a. 30 degrees 13 minutes 48.36 seconds N  
89 degrees 57 minutes 15.24 seconds W

- b. 30 degrees 13 minutes 48.36 seconds N  
89 degrees 56 minutes 27.24 seconds W
- c. 30 degrees 13 minutes 06.36 seconds N  
89 degrees 56 minutes 27.24 seconds W
- d. 30 degrees 13 minutes 06.36 seconds N  
89 degrees 57 minutes 15.24 seconds W
- 4. St. Tammany (west)-St. Tammany Parish
  - a. 30 degrees 18 minutes 41.88 seconds N  
90 degrees 09 minutes 24.00 seconds W
  - b. 30 degrees 18 minutes 41.88 seconds N  
90 degrees 08 minutes 36.00 seconds W
  - c. 30 degrees 17 minutes 59.88 seconds N  
90 degrees 08 minutes 36.00 seconds W
  - d. 30 degrees 17 minutes 59.88 seconds N  
90 degrees 09 minutes 24.00 seconds W
- 5. St. Tammany Pier-St. Tammany Parish
  - a. 30 degrees 12 minutes 28.34 seconds N  
89 degrees 47 minutes 54.03 seconds W
  - b. 30 degrees 12 minutes 27.96 seconds N  
89 degrees 47 minutes 53.57 seconds W
  - c. 30 degrees 12 minutes 20.66 seconds N  
89 degrees 48 minutes 01.30 seconds W
  - d. 30 degrees 12 minutes 21.03 seconds N  
89 degrees 48 minutes 01.76 seconds W
- 6. North Shore-St. Tammany Parish
  - a. 30 degrees 16 minutes 38.00 seconds N  
90 degrees 04 minutes 08.00 seconds W
  - b. 30 degrees 16 minutes 38.00 seconds N  
90 degrees 03 minutes 21.00 seconds W
  - c. 30 degrees 15 minutes 58.00 seconds N  
90 degrees 03 minutes 21.00 seconds W
  - d. 30 degrees 15 minutes 58.00 seconds N  
90 degrees 04 minutes 08.00 seconds W
- 7. North Twin Span-St. Tammany Parish
  - a. 30 degrees 11 minutes 39.13 seconds N  
89 degrees 50 minutes 15.54 seconds W
  - b. 30 degrees 11 minutes 39.13 seconds N  
89 degrees 50 minutes 10.78 seconds W
  - c. 30 degrees 11 minutes 35.02 seconds N  
89 degrees 50 minutes 10.78 seconds W
  - d. 30 degrees 11 minutes 35.02 seconds N  
89 degrees 50 minutes 15.54 seconds W
- 8. South Twin Span-Orleans Parish
  - a. 30 degrees 10 minutes 12.23 seconds N  
89 degrees 50 minutes 47.04 seconds W
  - b. 30 degrees 10 minutes 12.23 seconds N  
89 degrees 50 minutes 42.27 seconds W
  - c. 30 degrees 10 minutes 08.11 seconds N  
89 degrees 50 minutes 42.27 seconds W
  - d. 30 degrees 10 minutes 08.11 seconds N  
89 degrees 50 minutes 47.04 seconds W
- 9. Orleans-Orleans Parish
  - a. 30 degrees 07 minutes 47.46 seconds N  
90 degrees 05 minutes 05.70 seconds W
  - b. 30 degrees 07 minutes 47.46 seconds N  
90 degrees 04 minutes 17.70 seconds W
  - c. 30 degrees 07 minutes 05.46 seconds N  
90 degrees 04 minutes 17.70 seconds W
  - d. 30 degrees 07 minutes 05.46 seconds N  
90 degrees 07 minutes 05.70 seconds W
- 10. Lake Front-Orleans Parish

- a. 30 degrees 03 minutes 34.72 seconds N  
89 degrees 59 minutes 40.25 seconds W
- b. 30 degrees 03 minutes 35.72 seconds N  
89 degrees 59 minutes 38.25 seconds W
- c. 30 degrees 03 minutes 35.57 seconds N  
89 degrees 59 minutes 38.05 seconds W
- d. 30 degrees 03 minutes 30.22 seconds N  
89 degrees 59 minutes 33.25 seconds W
- 11. South Shore-Jefferson Parish
  - a. 30 degrees 05 minutes 25.00 seconds N  
90 degrees 12 minutes 42.00 seconds W
  - b. 30 degrees 05 minutes 25.00 seconds N  
90 degrees 11 minutes 56.00 seconds W
  - c. 30 degrees 04 minutes 44.00 seconds N  
90 degrees 11 minutes 56.00 seconds W
  - d. 30 degrees 04 minutes 44.00 seconds N  
90 degrees 12 minutes 42.00 seconds W
- 12. Laketown-Jefferson Parish
  - a. 30 degrees 02 minutes 40.92 seconds N  
90 degrees 14 minutes 23.11 seconds W
  - b. 30 degrees 02 minutes 38.30 seconds N  
90 degrees 14 minutes 18.46 seconds W
  - c. 30 degrees 02 minutes 35.07 seconds N  
90 degrees 14 minutes 20.28 seconds W
  - d. 30 degrees 02 minutes 37.69 seconds N  
90 degrees 14 minutes 24.93 seconds W
- 13. Independence Island-Jefferson Parish
  - a. 29 degrees 18 minutes 34.48 seconds N  
89 degrees 56 minutes 13.37 seconds W
  - b. 29 degrees 18 minutes 34.22 seconds N  
89 degrees 55 minutes 48.52 seconds W
  - c. 29 degrees 18 minutes 24.32 seconds N  
89 degrees 55 minutes 48.66 seconds W
  - d. 29 degrees 18 minutes 24.58 seconds N  
89 degrees 56 minutes 13.51 seconds W
- 14. Bully Camp 1-Lafourche Parish
  - a. 29 degrees 27 minutes 30.08 seconds N  
90 degrees 22 minutes 43.33 seconds W
  - b. 29 degrees 27 minutes 30.04 seconds N  
90 degrees 22 minutes 38.63 seconds W
  - c. 29 degrees 27 minutes 25.92 seconds N  
90 degrees 22 minutes 38.67 seconds W
  - d. 29 degrees 27 minutes 25.96 seconds N  
90 degrees 22 minutes 43.37 seconds W
- 15. Bully Camp 2-Lafourche Parish
  - a. 29 degrees 27 minutes 44.08 seconds N  
90 degrees 23 minutes 03.33 seconds W
  - b. 29 degrees 27 minutes 44.04 seconds N  
90 degrees 22 minutes 58.63 seconds W
  - c. 29 degrees 27 minutes 39.92 seconds N  
90 degrees 22 minutes 58.67 seconds W
  - d. 29 degrees 27 minutes 35.96 seconds N  
90 degrees 23 minutes 03.37 seconds W
- 16. St. Charles-St. Charles Parish
  - a. 30 degrees 08 minutes 26.10 seconds N  
90 degrees 19 minutes 26.28 seconds W
  - b. 30 degrees 08 minutes 26.10 seconds N  
90 degrees 14 minutes 38.28 seconds W
  - c. 30 degrees 07 minutes 44.10 seconds N  
90 degrees 18 minutes 38.28 seconds W
  - d. 30 degrees 07 minutes 44.10 seconds N



- 90 degrees 19 minutes 26.28 seconds W
17. Rabbit Island Reef-St. Mary Parish
    - a. 29 degrees 30 minutes 41.31 seconds N  
91 degrees 34 minutes 00.39 seconds W
    - b. 29 degrees 30 minutes 41.34 seconds N  
91 degrees 33 minutes 43.68 seconds W
    - c. 29 degrees 30 minutes 26.73 seconds N  
91 degrees 33 minutes 43.65 seconds W
    - d. 20 degrees 30 minutes 26.70 seconds N  
91 degrees 34 minutes 00.35 seconds W
  18. Finfish Reef 1-Cameron Parish
    - a. 29 degrees 58 minutes 15.58 seconds N  
93 degrees 18 minutes 12.25 seconds W
    - b. 29 degrees 58 minutes 15.83 seconds N  
93 degrees 17 minutes 55.47 seconds W
    - c. 29 degrees 58 minutes 01.22 seconds N  
93 degrees 17 minutes 55.19 seconds W
    - d. 29 degrees 58 minutes 00.97 seconds N  
93 degrees 18 minutes 11.97 seconds W
  19. Turner's Bay Island Reef-Cameron Parish
    - a. 30 degrees 03 minutes 20.56 seconds N  
93 degrees 18 minutes 29.54 seconds W
    - b. 30 degrees 03 minutes 20.11 seconds N  
93 degrees 18 minutes 26.51 seconds W
    - c. 30 degrees 03 minutes 18.54 seconds N  
93 degrees 18 minutes 26.82 seconds W
    - d. 30 degrees 03 minutes 18.99 seconds N  
93 degrees 18 minutes 29.85 seconds W
  20. Oyster Reef 1-Cameron Parish
    - a. 29 degrees 51 minutes 05.56 seconds N  
93 degrees 17 minutes 09.90 seconds W
    - b. 29 degrees 51 minutes 05.81 seconds N  
93 degrees 16 minutes 53.14 seconds W
    - c. 29 degrees 50 minutes 51.20 seconds N  
93 degrees 16 minutes 52.86 seconds N
    - d. 29 degrees 50 minutes 50.96 seconds N  
93 degrees 17 minutes 09.62 seconds W
  21. Oyster Reef 2-Cameron Parish
    - a. 29 degrees 51 minutes 05.08 seconds N  
degrees 17 minutes 02.82 seconds W
    - b. 29 degrees 51 minutes 05.33 seconds N  
degrees 16 minutes 46.06 seconds W
    - c. 29 degrees 50 minutes 50.72 seconds N  
degrees 16 minutes 45.78 seconds W
    - d. 29 degrees 50 minutes 50.47 seconds N  
93 degrees 17 minutes 02.54 seconds W
  22. Oyster Reef 3-Cameron Parish
    - a. 29 degrees 51 minutes 09.10 seconds N  
93 degrees 17 minutes 06.96 seconds W
    - b. 29 degrees 51 minutes 09.35 seconds N  
93 degrees 16 minutes 50.20 seconds W
    - c. 29 degrees 50 minutes 54.74 seconds N  
93 degrees 16 minutes 49.92 seconds W
    - d. 29 degrees 50 minutes 54.49 seconds N  
93 degrees 17 minutes 06.68 seconds W
  23. Sweet Lake-Cameron Parish
    - a. 29 degrees 56 minutes 38.02 seconds N  
93 degrees 17 minutes 33.42 seconds W
  - b. 29 degrees 56 minutes 38.27 seconds N  
93 degrees 17 minutes 16.65 seconds W
  - c. 29 degrees 56 minutes 23.66 seconds N  
93 degrees 17 minutes 16.36 seconds W
  - d. 29 degrees 56 minutes 23.41 seconds N  
93 degrees 17 minutes 33.14 seconds W
  24. Bird Island-Terrebonne Parish
    - a. 29 degrees 03 minutes 40.34 seconds N  
90 degrees 43 minutes 34.07 seconds W
    - b. 29 degrees 03 minutes 40.26 seconds N  
90 degrees 43 minutes 17.44 seconds W
    - c. 29 degrees 03 minutes 25.65 seconds N  
90 degrees 43 minutes 17.53 seconds W
    - d. 29 degrees 03 minutes 25.73 seconds N  
90 degrees 43 minutes 34.16 seconds W
  25. Bird Island II-Terrebonne Parish
    - a. 29 degrees 03 minutes 41.97 seconds N  
90 degrees 43 minutes 29.63 seconds W
    - b. 29 degrees 03 minutes 41.89 seconds N  
90 degrees 43 minutes 12.99 seconds W
    - c. 29 degrees 03 minutes 27.28 seconds N  
90 degrees 43 minutes 13.08 seconds W
    - d. 29 degrees 03 minutes 27.36 seconds N  
90 degrees 43 minutes 29.71 seconds W
  26. Point Mast-Terrebonne Parish
    - a. 29 degrees 06 minutes 34.01 seconds N  
90 degrees 38 minutes 16.87 seconds W
    - b. 29 degrees 06 minutes 33.92 seconds N  
90 degrees 38 minutes 00.24 seconds W
    - c. 29 degrees 06 minutes 19.31 seconds N  
90 degrees 38 minutes 00.34 seconds W
    - d. 29 degrees 06 minutes 19.40 seconds N  
90 degrees 38 minutes 16.97 seconds W
  27. Cypremort Point I-Iberia Parish
    - a. 29 degrees 43 minutes 21.03 seconds N  
91 degrees 52 minutes 23.19 seconds W
    - b. 29 degrees 43 minutes 21.04 seconds N  
91 degrees 52 minutes 20.82 seconds W
    - c. 29 degrees 43 minutes 18.97 seconds N  
91 degrees 52 minutes 20.81 seconds W
    - d. 29 degrees 43 minutes 18.96 seconds N  
91 degrees 52 minutes 23.18 seconds W
  28. Cypremort Point II-Iberia Parish
    - a. 29 degrees 44 minutes 26.95 seconds N  
91 degrees 52 minutes 54.25 seconds W
    - b. 29 degrees 44 minutes 27.02 seconds N  
91 degrees 52 minutes 37.51 seconds W
    - c. 29 degrees 44 minutes 12.41 seconds N  
91 degrees 52 minutes 37.43 seconds W
    - d. 29 degrees 44 minutes 12.34 seconds N  
91 degrees 52 minutes 54.17 seconds W
  29. Redfish Pointe (original)-Vermilion Parish
    - a. 29 degrees 40 minutes 47.76 seconds N  
92 degrees 07 minutes 14.90 seconds W
    - b. 29 degrees 40 minutes 47.86 seconds N  
92 degrees 06 minutes 58.17 seconds W
    - c. 29 degrees 40 minutes 33.24 seconds N  
92 degrees 06 minutes 58.06 seconds W

- d. 29 degrees 40 minutes 33.14 seconds N  
92 degrees 07 minutes 14.79 seconds W
- 30. Redfish Pointe-Vermilion Parish
  - a. 29 degrees 40 minutes 44.28 seconds N  
92 degrees 07 minutes 13.40 seconds W
  - b. 29 degrees 40 minutes 44.38 seconds N  
92 degrees 06 minutes 56.67 seconds W
  - c. 29 degrees 40 minutes 29.76 seconds N  
92 degrees 06 minutes 56.56 seconds W
  - d. 29 degrees 40 minutes 29.66 seconds N  
92 degrees 07 minutes 13.29 seconds W

- 31. Prien Point-Vermilion Parish
  - a. 29 degrees 39 minutes 45.53 seconds N  
92 degrees 08 minutes 05.36 seconds W
  - b. 29 degrees 39 minutes 45.64 seconds N  
92 degrees 07 minutes 48.63 seconds W
  - c. 29 degrees 39 minutes 31.02 seconds N  
92 degrees 07 minutes 48.52 seconds W
  - d. 29 degrees 39 minutes 30.92 seconds N  
92 degrees 08 minutes 05.25 seconds W

B. No person shall harvest oysters from these recreational reefs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:805.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

#### **Family Impact Statement**

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

#### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

- 1. the effect on household income, assets, and financial security;
- 2. the effect on early childhood development and preschool through postsecondary education development;
- 3. the effect on employment and workforce development;
- 4. the effect on taxes and tax credits;
- 5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

#### **Public Comments**

Interested persons may submit written comments relative to the proposed Rule until 4:30 p.m., June 5, 2015 to

Michael R. McDonough, LDWF Fisheries Division, P.O. Box 98000, Baton Rouge, LA 70898.

Pat Manuel  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Recreational Reef Sites and Restriction of Oyster Harvest**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will have no impact on state or local governmental unit expenditures.

The proposed rule designates thirty-one water bottoms as recreational reef sites and prohibits the commercial harvest of oysters thereon. According to recent surveys by Wildlife and Fisheries, eleven of the proposed reefs are located in portions of public oyster areas from which few oysters have been harvested commercially. Twenty of the proposed reefs are located in water bottoms that are not currently included within private oyster leases and from which, consequently, the harvest of oysters is prohibited under state law.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change is anticipated to have no impact on revenue collections of the state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change should have a positive impact on recreational fishing opportunities by maintaining or improving inshore areas at 31 sites in 11 parishes totaling approximately 3,200 acres.

The proposed rule change is expected to have little to no impact on the commercial harvest of oysters because the reefs do not have commercially viable oyster populations.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment.

Bryan McClinton  
Undersecretary  
1504#091

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Workforce Commission Rehabilitation Services**

Business Enterprises Program Manual (LAC 67:VII.519)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, Louisiana Workforce Commission (LWC), Louisiana Rehabilitation Services (LRS), proposes to revise two parts of one Section of the Business Enterprise Program manual, as it relates to the Randolph-Sheppard Program. In §519.E.1.a, state licensing agency responsibilities for business enterprise operations, the term *priority* is being changed to *extra consideration*. In §519.G.2.h, the agency is providing clarification to the 30 calendar day time frame as it relates to convening an arbitration panel with the secretary. Amending the above sections of the Business Enterprises Program policy manual

will allow for selection of the most qualified applicant for vacant facilities and establishing a time frame for requesting federal arbitration.

## **Title 67**

### **SOCIAL SERVICES**

#### **Part VII. Rehabilitation Services**

##### **Chapter 5. Business Enterprises Program Manual**

##### **§519. State Licensing Agency Responsibilities for Business Enterprise Operations**

A. - D. ...

E. Assignment, Transfer of Licensed Managers. The SLA will carry out assignment and transfer of licensed managers through business enterprise vacancy announcements, eligibility verification, and establishing and convening a screening committee.

###### **1. Business Enterprise Vacancy Announcement**

a. The SLA will develop minimum qualifications specific to the characteristics of the vacant enterprise. These minimum qualification will establish the level of accomplishment expected of the applicant for the vacant business enterprise in each of the areas to be considered by the screening committee as described in §519.E.2. Extra consideration will be given to displaced licensed managers:

- i. location, type of enterprise, and general description of operations;
- ii. minimum qualifications;
- iii. for a new enterprise, estimates of monthly net sales based upon potential patronage, with disclaimer this estimate is not a guarantee of sales; and
- iv. application due date.

E.2. - F.6. ...

G. Due Process. The SLA provides procedures for fair hearings of licensed managers' grievances. These procedures provide each licensed manager the opportunity to seek remediation of dissatisfaction with any SLA action arising from the operation of the BEP and are set forth in the following.

1. - 1.c. ...

2. Full Evidentiary Hearings. Licensed managers have the right to a full evidentiary hearing to resolve dissatisfaction with any SLA action arising from the operation or administration of the Business Enterprises Program. Evidentiary hearings shall be conducted as set forth in the following.

a. - g. ...

h. If the licensed manager is dissatisfied with the decision, she or he may request that the secretary (USDE) convene an arbitration panel. The request for an arbitration panel must be made in writing within 30 calendar days from the date the licensed manager receives written notification of the full evidentiary hearing decision.

3. - 4.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:532 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

##### **Family Impact Statement**

In compliance with R.S. 49:972 the impact of this proposed Rule has been considered. It is anticipated that this

proposed Rule may have a positive impact on family functioning, stability or autonomy by increasing access to and participation in the Vocational Rehabilitation/Business Enterprise Program. This Rule will not effect the authority and rights of parents regarding the education and supervision of their children or behavior and personal responsibility of children.

##### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973(B) due to increase participation in the Vocational Rehabilitation/Business Enterprise Program which is expected to reduce dependence on public assistance programs and enable employment and independence.

##### **Small Business Statement**

The proposed Rule's impact on small business has been considered in accordance with R.S. 49:965.6 and it is estimated that the proposed actions will have negligible impact on small businesses as defined in the Regulatory Flexibility Act.

##### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on the staffing level requirements or qualifications required to provide the same level of service; the total direct and indirect effect on the cost to the providers to provide the same level of service; or the overall effect on the ability of the provider to provide the same level of service.

##### **Public Comments**

Interested persons may submit written comments, data, or opinions through May 28, 2015 to Mark S. Martin, LRS Director, P.O. Box 91297, Baton Rouge, LA 70821-9297. Copies of the of the revised policy may be obtained at Louisiana Rehabilitation Services, 950 North Twenty-Second Street, Baton Rouge, LA 70802, or at each of its eight regional offices, and at the Office of the State Register, 1201 North Third Street, Baton Rouge, LA, or on the Office of the State Register's website at [www.doa.louisiana.gov/osr/osr.htm](http://www.doa.louisiana.gov/osr/osr.htm).

##### **Public Hearing**

A public hearing on the proposed Rule will be held on May 28, 2015 at the Baton Rouge Regional Office, 3651 Cedarcrest Avenue, Baton Rouge, LA, beginning at 9 a.m. Individuals with disabilities who require special services should contact Judy Trahan, Program Coordinator, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call (225) 219-2225 or (800) 737-2958 (V/TDD).

Curt Eysink  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: **Business Enterprises Program Manual**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Louisiana Administrative Code (LAC) Title 67 Social Services, Part VII Rehabilitation Services, Chapter 5 Business Enterprises Program Manual, and Section 519 State Licensing Agency Responsibilities for Business Enterprise Operations. The proposed rule amends two aspects of the Business Enterprise Program Manual for the Randolph-Sheppard Program - (1) replaces the term "priority" with "extra consideration" when selecting displaced licensed managers for vacant facilities/enterprises; and (2) clarifies that the request for a federal arbitration panel must be made in writing within 30 calendar days from the date the licensed manager receives written notification of the full evidentiary hearing decision.

The only costs associated with this proposed rule are administrative expenses necessary for the promulgation the rule that is estimated at \$1,200 Federal funds. The cost of rulemaking is routinely included in the agency's annual operating budget.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no anticipated effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule is not anticipated to have a fiscal impact on non-governmental groups. However, the exact impact of the proposed rule that changes "priority" to "extra consideration" on a displaced licensed manager applying for vacant facilities/enterprises is unknown.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not anticipated to have an impact on competition and employment.

Curt Eysink  
Executive Director  
1504#092

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

### NOTICE OF INTENT

#### **Workforce Commission Rehabilitation Services**

#### Vocational Rehabilitation Program (LAC 67:VII.Chapter 1)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, Louisiana Workforce Commission, Louisiana Rehabilitation Services (LRS) proposes to amend §103, §105, §115, §117, and §119 of its Vocational Rehabilitation Program (VR) policy manual to provide clarification of processes and to update guidelines to be used in the determination of financial assistance for eligible consumers. In §103, Enabling Legislation, Louisiana Rehabilitation Services is updating its policy manual to reflect the agency transfer to the Louisiana Workforce Commission from the Department of Social Services per Act 939 of the 2010 Legislative Session. In §105, Confidentiality, the agency is clarifying the need to have written consent to release an individual's case file information. In §115, Financial, the agency will remove the

out-of-date basic living requirement chart and proposes to use the U.S. Department of Health and Human Services' poverty guidelines, thus allowing the agency access to the most up-to-date information when determining financial assistance for eligible consumers. In §117, Vocational Rehabilitation Services, the agency is restructuring policy pertaining to the scope of establishing a small business. The agency proposes to revise the definition of "transition student" in §119, Transition Process for Individuals in Secondary Education Programs.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part VII. Rehabilitation Services**

#### **Chapter 1. General Provisions**

#### **§103. Enabling Legislation**

A. - B. ...

C. *Louisiana Revised Statutes*

1. Act 939 of the 2010 Legislative Session transferred programs operated by LRS from the Department of Social Services to Louisiana Workforce Commission.

2. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23-3001.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1265 (July 1999), LR 29:46 (January 2003), amended by Workforce Commission, Rehabilitation Services, LR 41:

#### **§105. Confidentiality**

A. - B.5. ...

C. Release of Confidential Information

1. The case file must contain documentation concerning any information released with the individual's written consent. Informed written consent is required for the release of personal records to the following:

a. public assistance agencies or programs from which the client has requested services or to which the client is being referred for services;

b. the Louisiana Workforce Commission, formerly the Louisiana Department of Labor, and military services of the United States government;

c. doctors, hospitals, clinics, rehabilitation centers, community rehabilitation programs and vendors providing services to clients as authorized by Louisiana Rehabilitation Services;

d. schools or training centers, when LRS has authorized the service or is considering authorizing such services, and the information is required for the client's success in the program, for the safety of the client, or is otherwise in the client's best interest.

2. - 2.c. ...

3. LRS may also release personal information to protect the individual or others when the individual poses a threat to his/her safety or the safety of others.

D. - G.2.b. ...

c. inform the regional manager or designee if the above steps do not resolve the situation. In this case, the regional manager or designee will then turn the matter over to the Louisiana Workforce Commission's legal counsel.

3. - 3.d.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23-3001.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 22:993 (October 1996), repromulgated LR 25:1265 (July 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

#### **§115. Financial**

A. - B.2.a.vii. ...

viii. on-the-job training;

ix. assistive technology devices and services (except hearing aids);

x. personal assistance services provided simultaneously with any of the above-listed vocational rehabilitation services; (Examples include attendant, reader, scribe, interpreter, ASL, braille, notetaker, and adjustment/orientation and mobility training services.)

2.b. - 3.d.ii. ...

C. LRS shall determine an individual's financial need for certain vocational rehabilitation services based on the individual's disability related expenses, available assets, and the U.S. Department of Health and Human Services' poverty guidelines.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 23-3001.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 24:959 (May 1998), LR 25:1273 (July 1999), LR 27:212 (February 2001), LR 27:1561 (September 2001), LR 29:47 (January 2003), LR 30:1488 (July 2004), LR 34:1038 (June 2008), amended by the Workforce Commission, Rehabilitation Services, LR 41:

#### **§117. Vocational Rehabilitation Services**

A. - C.1.b.ii. ...

D. Scope of Establishment of Small Business Enterprise

1. The purpose of a self-employment goal for a client is to establish an individual with a disability in a small business enterprise that will provide sufficient income to support the individual and their family, thereby enabling the individual to meet ordinary daily living expenses and business costs. LRS desires to make self-employment an available option only when it is clearly demonstrated that self-employment is the best choice for the client.

2. All other applicable state, federal, and agency laws, policy and procedure must be followed, including state purchasing laws.

3. These policy provisions do not apply to the Randolph Sheppard Program.

4. Ultimate approval of funding a small business enterprise for an eligible vocational rehabilitation client lies with Louisiana Rehabilitation Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23-3001.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1274 (July 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

#### **§119. Transition Process for Individuals in Secondary Education Programs**

A. - D. ...

E. The following provisions are the key points in LRS' transition process:

1. LRS will provide consultation and technical assistance (to the extent possible considering time and agency resources) as early as possible in the transition process, for students with disabilities who have an individualized education plan (IEP), have been under Section 504 of the Rehabilitation Act, or is an individual with a disability under the Rehabilitation Act.

2. LRS will ensure the development and approval of IPEs for eligible students—as early as possible in the transition process but, at the latest, by the time each student determined eligible for vocational rehabilitation services leaves the school setting.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23-3001.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 25:1276 (July 1999), amended LR 30:1488 (July 2004), amended by the Workforce Commission, Rehabilitation Services, LR 41:

#### **Family Impact Statement**

In compliance with R. S. 49:972 the impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability or autonomy by increasing access to and participation in the Vocational Rehabilitation Program. This Rule will not effect the authority and rights of parents regarding the education and supervision of their children or behavior and personal responsibility of children.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973(B) due to increase participation in the Vocational Rehabilitation Program which is expected to reduce dependence on public assistance programs and enable employment and independence.

#### **Small Business Statement**

The proposed Rule's impact on small business has been considered in accordance with R.S. 49:965.6 and it is estimated that the proposed actions will have negligible impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on the staffing level requirements or qualifications required to provide the same level of service; the total direct and indirect effect on the cost to the providers to provide the same level of service; or the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments, data, or opinions through May 28, 2015, to Mark S. Martin, LRS Director, P.O. Box 91297, Baton Rouge, LA 70821-9297. Copies of the of the revised policy may be obtained at Louisiana Rehabilitation Services, 950 North Twenty-

Second Street, Baton Rouge, LA 70802, or at each of its eight regional offices, and at the Office of the State Register, 1201 North Third Street, Baton Rouge, LA, or on the Office of the State Register's website at [www.doa.louisiana.gov/osr/osr.htm](http://www.doa.louisiana.gov/osr/osr.htm).

#### **Public Hearing**

A public hearing on the proposed Rule will be held on May 28, 2015 at the Baton Rouge Regional Office, 3651 Cedarcrest Avenue, Baton Rouge, LA, beginning at 9 a.m. Individuals with disabilities who require special services should contact Judy Trahan, Program Coordinator, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call (225) 219-2225 or (800) 737-2958 (V/TDD).

Curt Eysink  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Vocational Rehabilitation Program**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule amends Louisiana Administrative Code, Chapter 67, Part VII, and Chapter 1, Section 103 - Enabling Legislation, Section 105 - Confidentiality, Section 115 - Financial, Section 117 - Vocational Rehabilitation Services, and Section 119 - Transition Process for Individuals in Secondary Education Programs related to the Vocational Rehabilitation (VR) Program policy manual. The amendments provide clarification of processes and update guidelines used in the determination of financial assistance for eligible consumers.

In Section 103 - Enabling Legislation, the proposed rule updates the VR policy manual to reflect the transfer of the Louisiana Rehabilitation Services (LRS) to the Louisiana Workforce Commission (LWC) from the Department of Social

Services per Act 939 of the 2010 Regular Legislative Session. In Section 105 - Confidentiality, the proposed rule clarifies the need to have written consent to release an individual's case file information. In Section 115 - Financial, the proposed rule removes the out-of-date basic living requirement chart and utilizes the U.S. Department of Health and Human Services' poverty guidelines; thus, allowing the agency access to the most up-to-date information when determining financial assistance for eligible consumers. In Section 117 - Vocational Rehabilitation Services, the proposed rule restructures policy pertaining to the scope of establishing a small business. In Section 119 - Transition Process for Individuals in Secondary Education Program, the proposed rule revises the definition of "transition student".

Implementation costs associated with this proposed rule is the cost of publishing which is estimated to be approximately \$1,200 of Federal Funds. Publishing cost associated with rulemaking is routinely included in the agency's annual operating budget.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no anticipated effect on revenue collections of state or local government units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule is not anticipated to have any fiscal impact on persons directly affected or non-governmental groups. Individuals will continue to access vocational rehabilitation services through LRS/LWC.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule is not anticipated to have an impact on competition and employment.

Curt Eysink  
Executive Director  
1504#093

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

**CUMULATIVE: January-March 2015**

Louisiana Register Vol.41, No.4 April 20, 2015

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

#### Annual Quarantine Listing Plant Protection and Quarantine

In accordance with LAC 7:XV.107 and 109, we are hereby publishing the annual quarantine.

#### 1.0 Sweetpotato Weevil

##### (*Cylas formicarius elegantulus* Sum)

(a) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweetpotato weevil.

(b) In the state of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana.

2) The property located at the following coordinates: 32.457650, -91.572820; and any properties within a 300-yard radius of these coordinates.

#### 2.0 Pink Bollworm (*Pectinophora gossypiella* Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

##### Arizona

(1) Generally infested area: the entire state.

##### California

(1) Generally infested area: The entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: The entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

##### New Mexico

(1) Generally infested area: The entire state.

##### Texas

(1) Generally infested area: The entire state.

#### 3.0 Phytophagous Snails

The states of Arizona and California.

#### 4.0 Sugarcane Pests and Diseases

All states outside of Louisiana.

#### 5.0 Lethal Yellowing

The state of Florida.

#### 6.0 Texas Phoenix Decline

The states of Texas and Florida.

#### 7.0 Tristeza, Xyloporosis, Psorosis, Exocortis.

All citrus growing areas of the United States.

#### 8.0 Burrowing Nematode (*Radopholus similis*)

The States of Florida and Hawaii and the Commonwealth of Puerto Rico.

#### 9.0 Oak Wilt (*Ceratocystis fagacearum*)

##### Arkansas

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

##### Illinois

Entire state.

##### Indiana

Entire state.

##### Iowa

Entire state.

##### Kansas

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

##### Kentucky

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson,

Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

##### Maryland

Infected Counties: Allegany, Frederick, Garrett, and Washington.

##### Michigan

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

##### Minnesota

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

##### Missouri

Entire state.

##### Nebraska

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.



### **North Carolina**

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

### **Ohio**

Entire state.

### **Oklahoma**

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

### **Pennsylvania**

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

### **South Carolina**

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

### **Tennessee**

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

### **Texas**

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

### **Virginia**

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

### **West Virginia**

Infected counties: all counties except Tucker and Webster.

### **Wisconsin**

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

### **10.0 Phony Peach**

#### **Alabama**

Entire state.

#### **Arkansas**

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

#### **Florida**

Entire state.

### **Georgia**

Entire state.

### **Kentucky**

County of McCracken.

### **Louisiana**

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

### **Mississippi**

Entire state.

### **Missouri**

County of Dunklin.

### **North Carolina**

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

### **South Carolina**

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

### **Tennessee**

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

### **Texas**

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

### **11.0 Citrus Canker (*Xanthomonas citri* subsp. *citri*)**

#### **Louisiana**

Infested parishes: Orleans, and portions of Jefferson, St. Charles, and Plaquemines

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

### **12.0 Pine Shoot Beetle [*Tomicus piniperda* (L.)]**

Any areas designated as quarantined under the Federal Pine Shoot Beetle quarantine 7 CFR 301.50 et seq.

### **13.0 Citrus Greening [*Candidatus Liberibacter asiaticus*]**

#### **Louisiana**

Infested parishes: Orleans and Washington.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

### **14.0 Asian Citrus Psyllid [*Diaphorina citri* Kuwayama]**

#### **Louisiana**

Infested parishes: Jefferson, Orleans, Lafourche, Plaquemines, St. Bernard, St. Charles, St. James, St. Tammany, Tangipahoa and Terrebonne.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

Mike Strain, DVM  
Commissioner

1504#032

## POTPOURRI

### Department of Environmental Quality Office of Environmental Services Air Permits Division

#### Renewal of Minor Source Air Permits

On February 20, 2015, the Department of Environmental Quality (DEQ) promulgated amendments to LAC 33:III.503 (AQ266) which established a regulatory framework setting forth maximum terms and renewal procedures for minor source air permits. Per R.S. 30:2023(A), permits “shall have, as a matter of law, a term of not more than 10 years.” (0415Pot2)

According to AQ266, permits issued to minor sources of air emissions shall have an effective term of 10 years, unless a shorter period is provided in the permit. Any revision or reopening of the permit, except for administrative amendments and approvals to relocate, shall establish the start of a new permit term.

Applications to renew existing permits that will expire (or would have expired) on or before December 31, 2015, shall be due according to the schedule below. In order to manage the increased workload, DEQ has staggered the due dates so the permit applications can be processed efficiently, without delaying the processing of applications for new sources and permit modifications.

- October 1, 2015: permits that were issued or last modified prior to January 1, 1999.
- October 1, 2016: permits that were issued or last modified after January 1, 1999, but prior to January 1, 2003.
- October 1, 2017: permits that were issued or last modified after January 1, 2003, but prior to January 1, 2006.

Applications to renew existing permits that will expire after January 1, 2016, shall be submitted in accordance with LAC 33:III.503.C.3.a. These applications must be submitted at least 6 months prior to their date of expiration and may be due by July 2, 2015 (i.e., for permits issued January 2, 2006).

In order to renew an existing permit, owners or operators must complete the application for approval of emissions of air pollutants from minor sources in its entirety. The application forms are available on DEQ’s website at:

<http://www.deq.louisiana.gov/portal/tabid/2758/Default.aspx>.

Owners or operators of facilities that have ceased operations or that no longer require an air permit per the statutory exemption described at LAC 33:III.501.B.2.d should request a permit rescission using the application for approval of miscellaneous air permitting activities, which is also available on the webpage.

Questions regarding this notice may be directed to Bryan D. Johnston of the Air Permits Division at (225) 219-3450.

Herman Robinson, CPM  
Executive Counsel

1504#044

## POTPOURRI

### Department of Environmental Quality Office of the Secretary Legal Division

#### 2010 Sulfur Dioxide National Ambient Air Quality Standards State Implementation Plan (SIP)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2051 et seq., the secretary gives notice that the Office of Environmental Services, Air Permits Division, Manufacturing Section, will submit to the Environmental Protection Agency (EPA) a revision to the Louisiana state implementation plan (SIP) for sulfur dioxide. (1504Pot3)

On June 2, 2010, EPA strengthened the primary National Ambient Air Quality Standards (NAAQS) for SO<sub>2</sub>. EPA revised the primary SO<sub>2</sub> NAAQS by establishing a new 1-hour standard at a level of 75 parts per billion. The EPA has designated St. Bernard Parish as nonattainment for the new NAAQS. The SIP revision will implement standards required by the Clean Air Act for the nonattainment area.

All interested persons are invited to submit written comments concerning the revisions no later than 4:30 p.m., Friday, May 22, 2015, to Vivian H. Aucoin, Office of Environmental Services, P.O. Box 4313, Baton Rouge, LA 70821-4313. You may also reach her by phone at (225) 219-3482, or by email, [vivian.aucoin@la.gov](mailto:vivian.aucoin@la.gov). A public hearing will be held at 6 p.m. on Thursday, May 21, 2015, at the St. Bernard Government Council Chambers, 8201 West Judge Perez Drive, Chalmette, LA 70043.

A copy of the revision may be viewed on April 6, 2015, on the LDEQ website at: St. Bernard Parish Library, 2600 Palmisano Boulevard, Chalmette, Louisiana 70043; or LDEQ, 602 North Fifth Street, Baton Rouge, Louisiana 70802.

Herman Robinson, CPM  
Executive Counsel

1504#043

## POTPOURRI

### Department of Environmental Quality Office of the Secretary Legal Division

#### Notice of Public Hearing—Substantive Changes to Proposed Rule AQ349—Significant Monitoring Concentration for PM<sub>2.5</sub> and Addition of Significant Impact Levels for PM<sub>10</sub>, SO<sub>2</sub>, NO<sub>x</sub> and CO (LAC 33:III.509)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that the department is seeking to

incorporate substantive changes to the proposed amendments to various regulations, LAC 33:III.509 (Log #AQ349S), which were originally published as AQ349 in the October 20, 2014 issue of the *Louisiana Register*. (1504Pot1)

The department has made substantive changes to address comments received during the public comment period of proposed Rule AQ349. The changes:

1. delete the proposed class I significant impact levels (SILs);
2. set the PM<sub>2.5</sub> significant monitoring concentration (SMC) to 0 µg/m<sup>3</sup> and note that no preconstruction monitoring exemption is available with regard to PM<sub>2.5</sub>; and
3. replace language mirroring 40 CFR 51.166(k)(2) (use of SILs to determine whether a proposed source or modification must conduct refined modeling) with language analogous to 40 CFR 51.165(b)(2) (use of SILs to determine whether a proposed source or modification causes or contributes to a violation of a NAAQS or PSD increment).

In the interest of clarity and transparency, the department is providing public notice and opportunity to comment on the substantive changes to the amendments of the regulations in question. The department is also providing an interim response to comments received on the initial regulation proposal.

A strikeout/underline/shaded version of the proposed Rule that distinguishes original proposed language from language changed by this proposal and the interim response to comments are available on the internet at [www.deq.louisiana.gov](http://www.deq.louisiana.gov) under Rules and Regulations.

A public hearing on the substantive changes will be held on May 29, 2015, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed

amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the substantive changes. Persons commenting should reference this proposed regulation by AQ349S. Such comments must be received no later than May 29, 2015, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to [deidra.johnson@la.gov](mailto:deidra.johnson@la.gov). The comment period for the substantive changes ends on the same date as the public hearing. Copies of these substantive changes can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ349S. These proposed regulations are available on the internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

These substantive changes are available for inspection at the following LDEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM  
Executive Counsel

1504#045

# CUMULATIVE INDEX (Volume 41, Number 4)

2015	
Pages	Issue
1-298.....	January
299-505.....	February
506-580.....	March
581-881.....	April
EO—Executive Order	
PPM—Policy and Procedure Memoranda	
ER—Emergency Rule	
R—Rule	
N—Notice of Intent	
CR—Committee Report	
GR—Governor's Report	
L—Legislation	
P—Potpourri	
QU—Administrative Code Quarterly Update	

## ADMINISTRATIVE CODE UPDATE

### Cumulative

January 2014-December 2014, 289QU

January 2015-March 2015, 871QU

## AGRICULTURE AND FORESTRY

### Agricultural and Environmental Sciences, Office of

Pesticide application, 583ER

Quarantine listing, annual

Plant protection, 872P

Quarantine, 872P

### Structural Pest Control Commission

Hydraulic injection, 333R

### Beef Industry Council

Beef promotion and research program, 3ER, 332R

### Commissioner, Office of the

Agritourism activities, annual listing, 495P

### Forestry, Office of

Burning, prescribed

Complaints, 763N

Severance tax values, 2015, 495P

## CHILDREN AND FAMILY SERVICES

### Economic Stability Section

Child care access, homeless families, 531R

Supplemental nutritional assistance program (SNAP), 533R

Temporary assistance for needy families (TANF)

Initiatives, 403N

Use of benefits and fines for retailers, 534R

### Programs, Division of

Report

Progress and services, annual, 2015, 571P

Social services block grant intended use, 571P

Temporary assistance for needy families (TANF)

Caseload reduction, 292P

## CIVIL SERVICE

### Tax Appeals, Board of

Time, computation, 584ER

### Ethics, Board of

Act 857, 2014 legislative session, 764N

Limits

Drinks, 764N

Food, 764N

## CULTURE, RECREATION AND TOURISM

### Seafood Promotion and Marketing Board

Seafood promotion and marketing, 38R

## ECONOMIC DEVELOPMENT

### Business Development, Office of

Quality jobs program, 404N

## EDUCATION

### Elementary and Secondary Education, Board of

Bulletin 111—The Louisiana School, District, and State Accountability System, 156N, 615R, 765N

Bulletin 118—Statewide Assessment Standards and Practices, 157N, 616R

Bulletin 126—Charter Schools, 767N

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel, 771N

Bulletin 131—Alternative Education Schools/Programs Standards, 370R

Bulletin 134—Tuition Donation Rebate Program, 40R

Bulletin 135—Health and Safety, 4ER, 371R

Bulletin 137—Louisiana Early Learning Center Licensing Regulations, 158N, 616R

Bulletin 138—Jump Start Program, 371R

Bulletin 139—Louisiana Child Care and Development Fund Programs, 773N

Bulletin 741—Louisiana Handbook for School Administrators, 7ER, 41R, 186N, 406N, 643R, 780N

Emergency Planning and Attendance, 372R

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators, 407N, 782N

Bulletin 746—Louisiana Standards for State Certification of School Personnel, 188N, 408N, 644R, 783N

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs, 412N

Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities

Assessments, alternate, 535R

Bulletin 1566—Pupil Progression Policies and Procedures, 787N

Diplomas, honorary, 789N

## **EDUCATION (continued)**

### **Student Financial Assistance Commission**

#### **Student Financial Assistance, Office of**

Scholarship/grant programs

Information, personally identifiable, 649R

TOPS

Continuation requirements, 658R

Core curriculum, 649R

Equivalents, 373R

Art media I-IV, 301ER, 414N

Tech early start award, 374R, 668R

### **Tuition Trust Authority**

#### **Student Financial Assistance, Office of**

START saving program, 669R

Interest rates, 2014, 790N

## **ENVIRONMENTAL QUALITY**

### **Environmental Services, Office of**

#### **Air Permits Division**

Permits, minor source, renewal, 874P

### **Secretary, Office of the**

#### **Legal Division**

Air quality, standards, 198N

Ambient

PM<sub>10</sub>, 669R

Sulfur dioxide

National standards, 2010, state implementation plan, 874P

Federal, incorporation by reference, 2014, 791N

Byproduct material, distribution, 794N

Environmental assessment, reissued permits, 536R

Permit, minor source, 376R

Public hearing, substantive changes, proposed rule, AQ349

Impact levels, significant

CO, 874P

PM<sub>10</sub>, 874P

NO<sub>x</sub>, 874P

SO<sub>2</sub>, 874P

Monitoring concentration, significant, PM<sub>2.5</sub>, 874P

## **EXECUTIVE ORDERS**

BJ 14-18 Executive Branch—Expenditure Reduction, 1EO

BJ 15-01 BESE's Duty to Uphold the Accountability System and Offer Alternatives to the PARCC Test, 299EO

BJ 15-02 Carry-Forward Bond Allocation 2014, 300EO

BJ 15-03 Executive Branch—Expenditure Reduction, 506EO

BJ 15-04 Offender Labor, 507EO

BJ 15-05 Flags at Half Staff, 581EO

BJ 15-06 Flags at Half Staff, 581EO

BJ 15-07 Flags at Half Staff, 582EO

## **GOVERNOR**

### **Administration, Division of**

#### **Group Benefits, Office of**

Benefit limits, 302ER

Employee benefits, 338R

General provisions, 302ER

Pharmacy benefits formulary, 302ER

Prior authorization requirements, 302ER

#### **Property Assistance Agency**

Electronic media sanitization, 197N

#### **Racing Commission**

Claiming race, timing of entering, 799N

#### **State Procurement, Office of**

Procurement, 194N, 562N, 670R

Right to protest, 508ER, 584ER

#### **Tax Commission**

Public hearing

Ad valorem taxation, 671R

Oil and gas properties, 293P

#### **Technology Services, Office of**

Office of technology services consolidation, 46R

OTS IT bulletin, 495P

### **Certified Shorthand Reporters, Board of Examiners of**

Ethics, Code of, 336R

Transcript, certification, 334

### **Coastal Protection and Restoration Authority**

Proposed Policies

RESTORE act center of excellence, grants, administering, 572P

Public hearings

Draft annual plan, state fiscal year 2016, 292P

### **Contractors, Licensing Board for**

Construction management, 536R

### **Crime Victims Reparations Board**

Compensation to victims, 414N

Eligibility and application process, 301ER

Eligibility, sexual assault victims, 416N

### **Financial Institutions, Office of**

Judicial interest rate, 2015293P

Lender education, 537R

### **Home Inspectors, Board of**

Mold growth, visually observable evidence of suspected, 193N

### **Pardons, Board of**

#### **Parole, Committee on**

Parole

Administration, 42R

Eligibility, 42R

Hearings, 42R

Meetings, 42R

Types of parole, 42R

### **Public Defender Board**

Performance standards, criminal defense representation in indigent capital cases, 48R

### **Real Estate Appraisers Board**

Real estate, 368R

## **HEALTH AND HOSPITALS**

### **Aging and Adult Services, Office of**

- Home and community-based services waivers
  - Adult day health care, 379R
  - Community choices waiver, 311ER
  - Electronic visit verification, 510ER
- Nursing Facilities
  - Standards for payment
    - Level of care determinations, 318ER, 815N
- Personal care services, long-term
  - Freedom of choice and service delivery, 540R
  - Standards for participation, electronic visit verification, 519ER
- State personal assistance services program, 385R

### **Behavior Analyst Board**

- Continuing education, 417N

### **Behavioral Health, Office of**

- Behavioral health services
  - Adult, 377ER
  - Statewide management organization
    - LaCHIP affordable plan benefits administration, 508ER, 804N
  - School based behavioral health services, 384R
- Citizens with Developmental Disabilities, Office for**
  - Certification of medication attendants, 328ER
  - Home and community-based services waivers
    - Children's choice waiver, 125R, 538R
    - Electronic visit verification, 808N
  - New opportunities waiver
    - Electronic visit verification, 809N
  - Residential options waiver, 586ER
    - Electronic visit verification, 810N
  - Supports waiver
    - Electronic visit verification, 812N
  - Infant intervention services, 146R
  - Single point of entry into the system, 826N

### **Dentistry, Board of**

- Active practice, returning, 802N
- Continuing education, 800N
- Dental assistant, expanded duty, 801N
- Licenses revoked, reinstatement
  - Non-payment, 802N
  - Temporary licenses, 802N

### **Embalmers and Funeral Directors, Board of**

- Inspection, 199N
- Internship, 199N
- License, 199N

### **Emergency Response Network**

- Protocols
  - LERN destination
    - Trauma, 490N
  - STEMI, 137R
  - Stroke, 137R
  - Trauma, 137R

### **Health Services Financing, Bureau of**

- Abortion facilities, licensing standards, 685R
- Adult behavioral health services, 377R
- Applied behavior analysis-based therapy services, 9ER, 436N
- Behavioral health service providers
  - Licensing standards, 439N
- Behavioral health services
  - Statewide management organization

- LaCHIP affordable plan benefits administration, 508ER
- Coordinated care network
  - Physician services
    - Reimbursement methodology, 304ER
  - Recipient participation, 305ER, 585ER
- Crisis receiving centers
  - Licensing standards, 101R
- Disproportionate share hospital payments
  - Mental health emergency room extensions, 509ER
- Facility need review, 306ER
- Family planning services, 378R
- Free-standing birthing centers, 806N
- Home and community-based services providers
  - Licensing standards, 306ER
- Home and community-based services waivers
  - Adult day health care, 379R
  - Children's choice waiver, 125R, 538R
    - Electronic visit verification, 808N
  - Community choices waiver, 311ER
    - Electronic visit verification, 510ER
  - New opportunities waiver
    - Electronic visit verification, 809N
  - Residential options waiver, 586ER
    - Electronic visit verification, 810N
  - Supports waiver
    - Electronic visit verification, 812N
- Home health program
  - Rehabilitation services, reimbursement rate increase, 12ER, 813N
- Hospice services, 129R
- Hospital licensing standards
  - Therapeutic recreational therapists, 481N
- Inpatient hospital services
  - Children's specialty hospitals
    - Supplemental payments for New Orleans area hospitals, 312ER
  - Non-rural, non-state hospitals
    - Children's specialty hospitals reimbursements, 13ER
    - Supplemental payments, 133R
    - Supplemental payments for Baton Rouge area hospitals, 313ER
    - Supplemental payments for Monroe area hospitals, 314ER
    - Termination of additional payments for hemophilia blood products, 510ER
- Public-private partnerships
  - Reimbursement methodology, 315ER
  - South Louisiana area, 14ER
  - Supplemental payments, 315ER
- Intermediate care facilities for persons with intellectual disabilities
  - Complex care reimbursements, 15ER
  - Provider fee increase, 539R
  - Public facilities, reimbursement rate increase, 16ER
- Laboratory and radiology services
  - Reimbursement methodology, manual pricing, 539R
- Medicaid eligibility
  - Children supplemental security income (SSI), 482N
  - Medically needy program
    - Behavioral health services, 601ER
  - Modified adjusted gross income, 483N, 511ER

## **HEALTH AND HOSPITALS (continued)**

Provisional Medicaid program, 17ER, 516ER, 566N  
Medical transportation program  
Emergency aircraft transportation  
Rotor winged ambulance services, rate increase, 603ER  
Non-emergency medical transportation, 18ER  
Nursing facilities  
Leave of absence days, reimbursement reduction, 133R  
Licensing standards, 603ER  
Per diem rate reduction, 201N, 316ER, 317ER, 489N, 707R  
Reimbursement methodology  
Supplemental payments, 517ER  
Standards for payment  
Level of care determinations, 318ER, 815N  
Outpatient hospital services  
Children's specialty hospitals  
Supplemental payments for New Orleans area hospitals, 320ER  
Non-rural, non-state hospitals  
Supplemental Payments for Baton Rouge area hospitals, 320ER  
Supplemental payments for Monroe area hospitals, 319ER  
Public-private partnerships  
Reimbursement methodology, 518ER  
South Louisiana area, 21ER  
Supplemental payments, 321ER  
Pediatric day health care program, 133R  
Personal care services, long-term  
Freedom of choice and service delivery, 540R  
Standards for participation, electronic visit verification, 519ER  
Pharmacy benefits management program  
Methods of payment, 22ER  
State supplemental rebate agreement program, 22ER  
Professional services program  
Immunizations  
Reimbursement methodology, 23ER, 816N  
Physicians services  
Reimbursement methodology, 541R, 818N  
Reimbursement rate adjustment, 568N  
Psychiatric residential treatment facilities, licensing standards, 520ER  
Recovery audit contractor program, 322ER  
Rehabilitation clinics  
Physical and occupational therapies, reimbursement rate increase, 24ER, 203N, 707R  
School based behavioral health services, 384R  
School based health centers  
Rehabilitation services, reimbursement rate increase, 25ER, 204N, 708R  
State children's health insurance program  
Coverage of prenatal care services, 205N, 522ER, 708R  
LaCHIP affordable plan benefits administration, 607ER, 820N  
Modified adjusted gross income, 523ER, 822N

Substantive changes and public hearing notification  
Adult residential care providers, licensing standards, 572P  
Managed care for physical and basic behavioral health, 495P  
Targeted case management  
Reimbursement methodology, 325ER  
Therapeutic group homes  
Licensing standards, 325ER, 823N  
**Licensed Professional Counselors Board of Examiners**  
PLPC and PLMFT, 207N, 709R  
Fee structure adjustments/changes, 207N, 709R  
**Medical Examiners, Board of**  
Physician assistants, licensure and certification, practice, 431N  
Public hearing, substantive changes to proposed rule amendments, physician practice  
Conduct, unprofessional, 294P  
Telemedicine, 293P

## **Nursing, Board of**

Licensure by endorsement, 565N

## **Nursing Facility Administrators, Board of Examiners**

Continuing education, 96R  
Fee schedule, 96R  
License, refusal, suspension, and revocation, 96R  
Preceptor update, 96R

## **Pharmacy, Board of**

Compounding, 97R  
Permit, special event, 100R  
Prescriptions, 98R  
Monitoring program, dispenser reporting, 684R  
Schedule II, expiration, 684R

## **Psychologists, Board of Examiners of**

Continuing education, 419N  
Licensure, provisional, 420N, 427N

## **Public Health, Office of**

Added controlled dangerous substances, 329ER, 523ER  
Plumbing Fixtures and Water Supply and Distribution, 389R  
Public water systems levels, minimum disinfectant residual in, 524ER  
Reclassification of failure to obtain a food safety certification as a class A violation, 148R

## **Veterinary Medicine, Board of**

License procedures, 434N

## **INSURANCE**

## **Commissioner, Office of the**

Regulation 31, holding company, 830N

## **LOUISIANA STATE UNIVERSITY AND AGRICULTURAL AND MECHANICAL COLLEGE, BOARD OF SUPERVISORS OF**

## **Procurement and Property Management, Office of**

Audit, right to, 844N  
Notification, public, 844N  
University pilot procurement code, 541R

## **NATURAL RESOURCES**

### **Coastal Management, Office of**

Fisherman's gear compensation fund, administration, 150R

### **Conservation, Office of**

Carbon dioxide enhanced oil recovery, 258N  
Ecoserv environmental services, hearing notice, 498P  
Orphaned oilfield sites, 295P, 575P  
Public hearing, substantive changes to proposed rule, plug and abandonment of oil and gas wells, financial security, utility review status, 499P  
Statewide orders  
29-B, 26ER  
Commercial facilities and transfer stations setbacks, 260N  
29-B-a, 26ER

### **Environmental Division**

Legal notice  
Docket no. ENV 2015-01, 295P

## **PUBLIC SAFETY AND CORRECTIONS**

### **Corrections Services**

Offender incentive pay, 609ER, 845N  
Wage compensation, 609ER, 845N

### **Gaming Control Board**

Casino  
Age restrictions, 846N  
Gaming payment interception, 847N  
Gaming  
Area  
Minors, prevention, 846N  
Devices  
Electronic, progressive, 855N  
Internal controls  
Tips or gratuities, 849N  
Key gaming employee, 850N  
Managerial representative on premises, 852N  
Suitability determination  
Licenses, 851N  
Permits, 851N  
Suppliers, non-gaming, 854N  
Tax clearance  
Applicant, 856N  
Licensee, 856N  
Permittee, 856N  
Video draw poker  
Application, 857N  
License, 857N  
Penalty schedule, 858N

### **Liquefied Petroleum Gas Commission**

Classes of permits, 394R  
Liquefied petroleum gas, 395R

### **Motor Vehicles, Office of**

Driving schools, 150R

### **State Fire Marshal, Office of**

Buildings, 859N  
Construction, observation, 859N  
Door-to-door solicitations, 330ER  
Fire protection, 492N  
Inspection, final, 859N

## **REVENUE**

### **Policy Services Division**

Disclosure agreements, voluntary, 558R  
New markets jobs act, premium tax credit, 555R  
Penalty waiver, 557R  
Tax credit registry, Louisiana, 861N

### **Secretary, Office of the**

Louisiana tax delinquency amnesty act of 2014, 151R

## **STATE**

### **Elections Division**

Registrars of voters, merit evaluation, 528ER, 759R

## **TRANSPORTATION AND DEVELOPMENT**

### **Operations, Office of**

Advertising on DOTD-owned assets, 261N  
Louisiana transportation authority, 560R  
Sponsorships and acknowledgment signs on public rights of way, 261N

### **Professional Engineering and Land Surveying Board**

Engineering degree, graduate-level, experience credit, 569N

## **TREASURY**

### **Louisiana Housing Corporation**

Workforce housing initiative program, 401R

### **Teachers' Retirement System of Louisiana, Board of Trustees of the**

Defined benefit plan, 397R

## **WILDLIFE AND FISHERIES**

### **Wildlife and Fisheries Commission**

Catch and cook program and permit, 760R  
Crab traps  
Abandoned, removal, 154R  
Deer management assistance program (DMAP), 493N  
Fisheries forward program, Louisiana  
Commercial crab industry, 611ER  
Public hearing, substantive changes, 500P  
King mackerel season  
Commercial, 2015-16 season, 38ER  
Landing permit  
Recreational offshore, 761R  
Oyster  
Harvest, restrictions, 863N  
Reef Sites, recreational, 863N  
Season  
Public  
Closure, 613ER  
Opening, seed grounds, 613ER  
Port Eads public hearing  
Substantive changes, possession limit, 575P



## **WILDLIFE AND FISHERIES (continued)**

Red snapper season

Harvest, recreational, 613ER

Resident game hunting season

Areas, seasons, and bag limits, 264N

Game birds and animals, 264N

General and wildlife management area, 264N

Turkey hunting, 264N

Shrimp season closures, 330ER

Wild quadrupeds, possession of potentially dangerous  
big exotic cats and non-human primates, 152R

## **WORKFORCE COMMISSION**

### **Plumbing Board**

Water supply protection specialist, recertification, 287N,  
762R

### **Rehabilitation Services**

Business enterprises program manual, 866N

Vocational rehabilitation program, 868N

### **Workers' Compensation, Office of**

Appeals

Average weekly wage, preliminary determinations,  
560R

Decision of the medical director, 560R